THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES 1934

VOLUME 24 NUMBER 134

Washington, Friday, July 10, 1959

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Veterans Administration

Effective upon publication in the FEDERAL REGISTER, subparagraph (8) of § 6.322(a) is amended and subparagraph (10) is added as set out below.

§ 6.322 Veterans Administration.

(a) *Office of the Administrator.* * * *

(8) The Associate Deputy Administrator.

* * * * *

(10) One Assistant Deputy Administrator.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-5695; Filed, July 9, 1959; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P.P.C. 629, Revised]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Imported Fire Ant

ADMINISTRATIVE INSTRUCTIONS DESIGNATING REGULATED AREA

Pursuant to § 301.81–2 of the regulations supplemental to notice of Quarantine No. 81 relating to the imported fire ant (7 CFR 301.81–2, 23 F.R. 2240), under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the administrative instructions in 7 CFR, 1958 Supp., 301.81–2a are hereby revised to read:

§ 301.81–2a Administrative instructions designating regulated area under the imported fire ant quarantine.

Infestations of the imported fire ant have been determined to exist in the counties, parishes, other civil divisions, or parts thereof, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such localities because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, such counties, parishes, other civil divisions, or parts thereof, are hereby designated as imported fire ant regulated area within the meaning of the provisions in this subpart:

ALABAMA

Counties of Autauga, Baldwin, Bibb, Bullock, Butler, Chilton, Choctaw, Clarke, Conecuh, Covington, Dallas, Elmore, Escambia, Geneva, Greene, Hale, Houston, Jefferson, Lee, Lowndes, Macon, Marengo, Mobile, Monroe, Montgomery, Perry, Pickens, Sumter, Shelby, Tuscaloosa, Walker, Washington, and Wilcox.

Barbour County. That portion of the county lying south of the north line of T. 9 N. and east of the west line of R. 28 E.

Calhoun County. E⅔ Tps. 15 and 16 S., R. 6 E.; W⅔ Tps. 15 and 16 S., R. 7 E.; secs. 35 and 36, T. 16 S., R. 7 E.; and secs. 31 and 32, T. 16 S., R. 8 E.

Crenshaw County. That portion of the county lying north of the south line of T. 8 N.

Dale County. T. 5 N., R. 24 E.; S½ T. 6 N., R. 24 E.; and all of the county lying south of the Choctowhatchee River.

Etowah County. N½ T. 11 S., R. 6 E.; S½ T. 11 S., Rs. 5, 6, and 7 E., and all of the county within Rs. 5, 6, and 7 E., lying south of the north line of T. 12 S.

Henry County. The entire county except for Tps. 7 and 8 N., R. 27 E.; and E⅓ Tps. 7 and 8 N., R. 26 E.

Limestone County. T. 4 S., R. 4 W.; S½ T. 3 S., R. 4 W.; NE¼ T. 4 S., R. 5 W.; SE¼ T. 3 S., R. 5 W.; and all of T. 5 S., R. 4 W., lying north of the Tennessee River.

Morgan County. T. 4 S., R. 5 W.; T. 5 S., R. 4 W.; that part of T. 5 S., R. 5 W., lying south of the Tennessee River; and the N½ T. 6 S., Rs. 4 and 5 W.

Russell County., T. 14 N., R. 28 E.; that portion of T. 13 N., R. 28 E., lying east of North Fork Cowikee Creek; and that portion of the county lying east of the west line of R. 29 E.

(Continued on p. 5563)

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FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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CFR SUPPLEMENTS

(As of January 1, 1959)

All Supplements and revised books have been issued and are now available except the following:

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

Talladega. All of Talladega County lying south of the south line of T. 19 S.

ARKANSAS

Union County. T. 17 S., R. 15 W.; T. 17 S., R. 16 W.; secs. 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, and 16, T. 18 S., R. 16 W.; secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18, T. 18 S., R. 15 W.

FLORIDA

Counties of Bay, Escambia, Okaloosa, Santa Rosa, and Walton.

Calhoun County. That portion of the county bounded on the north by the Jackson-Calhoun County line; on the east by the eastern boundaries of secs. 22, 27, and 34, T. 2 N., R. 10 W. and sec. 3, T. 1 N., R. 10 W.; on the south by the southern boundaries of secs. 3, 4, 5, and 6, T. 1 N., R. 10 W. and secs. 1, 2, 3, 4, 5, and 6, T. 1 N., R. 11 W.; and on the west by the Bay-Calhoun County, line.

That portion of the county bounded on the north by the northern boundaries of secs. 30, 29, 28, 27, 26, and 25, T. 1 S., R. 11 W., secs. 30, 29, 28, 27, 26, and 25, T. 1 S., R. 10 W. and secs. 30, 29, 28, 27, 26, and 25, T. 1 S., R. 9 W.; on the east by the eastern boundaries of secs. 25 and 36, T. 1 S., R. 9 W., and the eastern boundary of T. 2 S., R. 9 W.; on the south by the southern boundaries of secs. 36, 35, 34, 33, and a portion of 32, T. 2 S., R. 9 W., extending to the eastern boundary of Dead Lake, thence southward along Dead Lake to the Gulf-Calhoun County line, and thence westward on the Gulf-Calhoun County line to the Bay-Calhoun County line; and on the west by the Bay-Calhoun County line.

Duval County. That portion of the county bounded on the north by St. Johns River; on the east by Greenfield Creek, State Highway 101A and the Duval-St. Johns County line; on the south by the southern boundaries of T. 3 S., R. 28 E. extending through sec. 36, T. 3 S., R. 27 E. to State Highway 115, thence southward along State Highway 115 to its intersection with U.S. Highway 1, thence southeast along said highway to the intersection of Loretta Road, thence west along Loretta Road to St. Johns River, thence north along St. Johns River to its intersection with the northern boundary of T. 4, S., R. 27 E., thence west to Ortego River; on the west by the Ortego River to its intersection with the Atlantic Coast Line Railroad, thence northeastward on the Atlantic Coast Line Railroad to its intersection with the Georgia Southern and Florida Railroad, thence southeast along said railroad to the St. Johns River.

Gadsden County. That portion of the county bounded on the north by the line common to Decatur County, Georgia and Gadsden County, Florida; on the east by the east bounday of T. 3 N., R. 3 W.; on the south by the southern boundary of T. 3 N., R. 3 W.; and on the west by the west boundary of T. 3 N., R. 3 W., including all of secs. 24 and 25, T. 3 N. R. 4 W.

Gulf County. That portion of the county bounded on the north by the Calhoun-Gulf County line; on the east by the east shore line of Dead Lake and the Chipola River; on the south by the southern boundary of sec. 31, T. 4 S., R. 9 W. and the southern boundaries of T. 4 S., R. 10 W. and T. 4 S., R. 11 W.; and on the west by the Bay-Gulf County line.

Hillsborough County. That portion of the county bounded on the north by the Pasco-Hillsborough County line; on the east by the Polk-Hillsborough County line; on the south by U.S. Highway 92 from the Polk County line west to the Pinellas County line; and on the west by the Pinellas-Hillsborough County line.

Holmes County. That portion of the county included in secs. 22, 23, 24, 25, 26, 27, 34, 35, and 36, T. 3 N., R. 18 W.; and secs. 19, 30, and 31, T. 3 N., R. 17 W.

That portion of the county included in secs. 25, 26, 27, 34, 35, and 36, T. 5 N., R. 15 W.; secs. 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, T. 5 N., R. 14 W.; secs. 1, 2, 3, 10, 11, and 12, T. 3 N., R. 15 W.; and secs. 2, 3, 4, 5, 6, 7, 8, 9, and 10, T. 3 N., R. 14 W.

Jackson County. That portion of the county bounded on the north by the Houston County, Alabama-Jackson County, Florida line; on the east by the eastern boundary of secs. 20, 29, and 32, T. 7 N., R. 11 W. and secs. 5, 8, 17, and 20 of T. 6 N., R. 11 W.; on the south by the southern boundaries of secs. 20 and 19, T. 6 N., R. 11 W. and secs. 24, 23, 22, and 21 of T. 6 N., R. 12 W.; and on the west by the western boundaries of secs. 21, 16, 9, and 4 of T. 6 N., R. 12 W. and secs. 33, 28, and 21 of T. 7 N., R. 12 W.

That portion of the county bounded on the north by the northern boundaries of secs. 34, 35, and 36, T. 5 N., R. 12 W., secs. 31, 32, 33, 34, 35, and 36, T. 5 N., R. 11 W., secs. 31, 32, 33, 34, 35, and 36, T. 5 N., R. 10 W. and secs. 31, 32, 33, 34, and 35, T. 5 N., R. 9 W.; on the east by the eastern boundaries of sec. 35, T. 5 N., R. 9 W., secs. 2, 11, 14, 23, 26, and 35, T. 4 N., R. 9 W. and secs. 2 and 11, T. 3 N., R. 9 W. and on the south by the southern boundaries of secs. 11, 10, 9, 8, and 7, T. 3 N., R. 9 W., secs. 12, 11, 10, 9, 8, and 7 T. 3 N., R. 10 W. secs. 12, 11, 10, 9, 8, and 7, T. 3 N., R. 11 W. and secs. 12, 11, and 10, T. 3 N., R. 12 W. and on the west by the Washington-Jackson County line and the western boundary of sec. 34, T. 5 N., R. 12 W.

Nassau County. That portion of the county bounded on the north by the northern boundary of T. 2 N., R. 28 E.; on the east by the Atlantic Ocean; on the south by the Duval-Nassau County line; and on the west by the Amelia River.

Pasco County. That portion of the county included within a line beginning at the northwest corner of sec. 10, T. 25 S., R. 16 E., and extending eastward along State Highway 52 to the intersection of the corporate limits of Dade City and thence south and east along the corporate limits to the intersection of U.S. Highway 98, thence south and southeast along said highway to its intersection with the Polk County line, thence west and south along the Polk County line to the intersection of the Hillsborough County line, thence due west along the Hillsborough County line to its intersection with U.S. Highway 19, thence north on U.S. Highway 19 to its intersection with the City limits of New Port Ritchie, thence east along said city limits and continuing due east to the intersection of the eastern boundary of sec. 10, T. 26 S., R. 16 E., thence due north to the point of beginning.

Washington County. That portion of the county bounded on the north by State Highway 166, on the east by State Highway 277, on the south by State Highway 280, and on the west by Holmes Creek.

That portion of the county included within sec. 36, T. 4 N., R. 13 W., secs. 31, 32, and 33, T. 4 N., R. 12 W.

That portion of the county bounded on the north by the northern boundaries of secs. 22, 23, and 24, T. 1 N., R. 15 W., secs. 19, 20, 21, 22, and 23, T. 1 N., R. 14 W.; on the east by the eastern boundaries of secs. 23, 26, and 35, T. 1 N., R. 14 W.; on the south by the southern boundaries of secs. 35, 34, 33, 32, and 31, T. 1 N., R. 14 W. and secs. 36, 35, and 34, T. 1 N., R. 15 W.; and on the west by the western boundaries of secs. 34, 27, and 22, T. 1 N., R. 15 W.

GEORGIA

Counties of Decatur, Grady, and Muscogee.

Bleckley County. That portion of the county lying within a circle having a radius of 2 miles with center at the intersection of U.S. Highway 23 and State Highway 26, including all of the city of Cochran.

Clayton County. That portion of the county included in the Lovejoy GMD 1651, including the town of Lovejoy; Forest Park GMD 1644, including the town of Forest Park and Lake City; and the portion of Adamson GMD 1189 north of the Southern Railroad spur, including that area within the Atlanta General Depot.

Crisp County. That portion of the county north of U.S. Highway 280, including all of the city of Cordele.

Dooly County. That portion of the county lying south of State Highway 27, excluding the city of Vienna.

Dougherty County. That portion of the county included in Albany GMD 945 lying north of State Highway 62, and a line extending due east from the intersection of State Highways Nos. 62 and 91 to the east GMD line; and that portion of East Dougherty GMD 1097 lying north of the Plummers School Road and a line extending due west from the intersection of the Plummers School Road and State Highway 133, to the west GMD line.

Harris County. That portion of the county in Waverly Hall GMD 934, including all of the town of Waverly Hall.

Meriwether County. That portion of the county lying south of State Highway 109 and west of the Central of Georgia Railroad, including all of the towns of Durand, Odessadale, Stovall and White Sulphur Springs and excluding all of the town of Greenville.

Troup County. That portion of the county included within a circle with a 4-mile radius using the intersection of the Atlanta and West Point Railroad and the Troup-Meriwether County line as a radius point, and the Community of Big Springs.

LOUISIANA

Parishes of Ascension, Beauregard, Concordia, East Baton Rouge, Iberia, Iberville, Jefferson, Lafayette, Livingston, Orleans, Ouachita, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Washington, and West Baton Rouge.

Acadia Parish. That portion of Acadia Parish lying east of R. 1 W.

Assumption Parish. That portion of the parish lying west of R. 14 E.

Avoyelles Parish. That portion of the parish lying south of T. 2 N.

Caddo Parish. That portion of the parish included within a circle having a 3½-mile radius with the center at the intersection of State Highways 1 and 511.

Calcasieu Parish. That portion of the parish lying west of R. 10 W.

Evangeline Parish. That portion of the parish lying east of R. 1 W.

Lafourche Parish. Secs. 1, 2, 3, 4, 24, 25, 37, 38, 39, 40, 41, 42, and 43, T. 18 S., R. 21 E.; secs. 4, 5, 6, 7, 8, 12, and 62, T. 17 S., R. 21 E.; secs. 43, 44, 45, 46, and 104, T. 17 S., R. 20 E.; and secs. 11, 12, 13, and 14, T. 14 S., R. 18 E.

Madison Parish. That portion of the parish lying west of Tensas Bayou and north of T. 15 N.

Rapides Parish. That portion of the parish south of T. 3 N., and east of R. 2 W.

Richland Parish. Secs. 12, 13, 24, and 25, T. 17 N., R. 9 E.; secs. 30, 19, 18, and 7, T. 17 N., R. 10 E.

St. Helena Parish. That portion of the parish lying south of T. 3 S., and west of the Tickfaw River.

St. Mary Parish. That portion of the parish lying west of the Wax Lake Outlet.

Vermilion Parish. That portion of the parish lying east of the west line of R. 1 E.

West Feliciana Parish. T. 2 S., R. 3 W.; T. 3 S., R. 2 W.; T. 4 S., R. 2 W.

MISSISSIPPI

Counties of Clay, Clarke, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jasper, Jefferson Davis, Jones,

Kemper, Lamar, Lauderdale, Lowndes, Marion, Monroe, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Stone, Walthall, and Wayne.

Amite County. Secs. 15 and 35, T. 1 N., R. 6 E.

Attala County. T. 15 N., R. 7 E.; secs. 5, 6, and 31, T. 14 N., R. 7 E.

Chickasaw County. Sec. 35, T. 14 S., R. 4 E.

Copiah County. Secs. 4, 5, 8, 9, and 36, T. 1 N., R. 1 E.; secs. 24 and 25, T. 2 N., R. 2 W.

Hinds County. That portion of the county lying east of the east line of R. 2 W.

Lawrence County. Sec. 2, T. 5 N., R. 10 E.; sec. 2, T. 4 N., R. 11 E.; and secs. 20, 21, 28, and 29, T. 7 N., R. 11 E.

Leake County. T. 9 N., R. 7 E.; T. 9 N., R. 8 E.; and the SE¼, T. 10 N., R. 6 E.

Lincoln County. E½, T. 7 N., R. 7 E.; and W½, T. 7 N., R. 8 E.

Madison County. SE¼ T. 7 N., R. 1 E.; SW¼ T. 7 N., R. 2 E.; sec. 29, T. 8 N., R. 2 E.

Pike County. Tps. 1 and 2 N., Rs. 7, 8, and 9 E.; E½ T. 3 N., R. 7 E.; T. 3 N., R. 8 E.; and sec. 29, T. 4 N., R. 8 E.

Rankin County. Tps. 5, 6, and 7 N., Rs. 1, 2, and 3 E.; sec. 3, T. 6 N., R. 4 E.; and sec. 26, T. 4 N., R. 1 E.

Sharkey County. Sec. 12, T. 12 N., R. 7 W.

Simpson County. NE¼ T. 1 N., R. 4 E.; S½ T. 2 N., R. 4 E.; and sec. 19, T. 2 N., R. 5 E.

Smith County. That portion of T. 10 N., R. 14 W., and that portion of W⅓ T. 10 N., R. 13 W., which lies in Smith County; E½ T. 1 N., R. 9 E.; and sec. 10, T. 2 N., R. 9 E.

Webster County. Sec. 10, T. 16 S., R. 2 E.

Wilkinson County. Sec. 35, T. 2 N., R. 2 W.

Winston County. Sec. 27, T. 15 N., R. 13 E.; sec. 7, T. 16 N., R. 14 E.

Yazoo County. Sec. 36, T. 12 N., R. 2 W.

SOUTH CAROLINA

Charleston County. That area included within a line beginning at a point where U.S. Highway 17 intersects Secondary State Highway 57, and extending northeast along Secondary State Highway 57 to its intersection with Primary State Highway 61; thence northwest along said highway to its intersection with the Charleston-Dorchester County line; thence east along said county line to its intersection with Secondary State Highway 75; thence southeast along Secondary State Highway 75 to its intersection with the Southern Railroad; thence southeast along said railroad to its intersection with Primary State Highway 7; thence southwest along said highway to its intersection with U.S. Highway 17; thence northwest along said U.S. Highway 17 to the point of beginning.

Orangeburg County. That area included within a line beginning at a point where the Atlantic Coast Line Railroad crosses the North Fork Edisto River and extending south along said river to Secondary State Highway 39; thence east along Secondary State Highway 39 to its intersection with U.S. Highway 21; thence south along U.S. Highway 21 to its intersection with Secondary State Highway 80; thence southeast along Secondary State Highway 80 to its intersection with Primary State Highway 121; thence northeast along Primary State Highway 121 to its intersection with U.S. Highway 178 at Bowman; thence northwest along U.S. Highway 178 to its intersection with Secondary State Highway 196; thence northeast along Secondary State Highway 196 to its intersection with Secondary State Highway 50; thence west along Secondary State Highway 50 to its intersection with Secondary State Highway 154; thence northwest along Secondary State Highway 154 to its intersection with Secondary State Highway 65; thence northwest along Secondary State Highway 65 to its intersection with the Atlantic Coast Line Railroad; thence southwest along the Atlantic Coast Line Railroad to the point of beginning; excluding the area within the corporate limits of the towns of Orangeburg, Rowesville, and Bowman.

TEXAS

Counties of Bexar, Hardin, Harris, Jasper, Jefferson, Newton, Orange, and Tyler.

(Sec. 9, 37 Stat. 318, sec. 106, 71 Stat. 33, 7 U.S.C. 162, 150ee. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161; 19 F.R. 74, as amended, 7 CFR, 1958 Supp., 301.81–2)

This revision shall become effective July 10, 1959, when it shall supersede P.P.C. 629, 7 CFR, 1958 Supp., 301.81–2a, which became effective May 6, 1958.

The purpose of this revision is to add the following to the regulated area:

Alabama. New area comprising Shelby County and part of Talladega County.

Arkansas. Additional sections in Union County.

Florida. All previously nonregulated area in Bay and Walton Counties; extensions of previously regulated area in Duval, Gadsden, Hillsborough, Holmes, Jackson, Pasco, and Washington Counties; and new area in Calhoun and Gulf Counties.

Georgia. New area including portions of the counties of Bleckley, Clayton, Dooly, Dougherty, Harris, Meriwether, and Troup.

Louisiana. Additional area in Caddo Parish, and new area to include Beauregard and Concordia Parishes and portions of the Parishes of Assumption, Lafourche, Madison, Rapides, and Richland.

Mississippi. Additional portions of Amite, Attala, Lawrence, Leake, Lincoln, Pike, Rankin, Simpson, and Smith Counties, and new area in Sharkey County.

Texas. New area comprising Bexar and Harris Counties.

This revision imposes restrictions supplementing imported fire ant quarantine regulations already effective. It must be made effective promptly in order to carry out the purposes of the regulations. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the revision are impracticable and contrary to the public interest, and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of July 1959.

[SEAL] D. R. SHEPHERD,
Acting Director,
Plant Pest Control Division.

[F.R. Doc. 59-5714; Filed, July 9, 1959; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—ECONOMIC REGULATIONS

[Reg. ER-278]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Posting and Notice Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of July 1959.

The current provisions of Part 221 of the Economic Regulations governing the posting of tariffs and the making of tariffs available for public inspection do not expressly provide for the posting and publishing of proposed tariff changes which have been filed but are not yet effective. Section 403 of the Act, on the other hand, directs the Board to prescribe regulations in accordance with which a carrier or foreign air carrier shall file, post, and publish proposed tariff changes. Accordingly, the Board is amending the appropriate provisions of Part 221 to meet the requirements of the Act.

Section 403(c) of the Act states that "No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier or foreign air carrier, except after thirty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section." Subsection (a) provides that "Tariffs shall be filed, posted and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe, * * *." Thus, the statutory language in the section clearly states that any carrier or foreign air carrier shall file, post, and publish proposed tariff changes at least thirty days before such changes become effective in accordance with regulations which the Board is directed to prescribe. Of course, this requirement is subject to the additional provision in section 403(c) which provides that "The Board may in the public interest, by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions."

This amendment to Part 221 provides that proposed tariff changes shall be posted and made accessible to the public at least thirty days prior to the effective date of such changes, with two exceptions. In the case of carrier offices or stations outside the continental United States, its territories and possessions, the time shall not be less than 25 days before the effective date of the tariff, and a tariff publication which the Board has authorized to be filed on shorter notice shall be posted by the carrier on like notice as authorized for filing.

Under the plain language of section 403(c), each carrier must post its proposed tariff changes to give 30 days' notice to the public except where the Board authorizes a lesser period in particular instances or by general order under special or peculiar circumstances or conditions. The purpose of this requirement is to give all members of the public (who are legally charged with notice of the contents of tariffs filed with the Board) some form of actual notice of tariff changes sufficient to enable them to exercise their statutory right to file a complaint with the Board respecting a tariff change prior to the time such change goes into effect and thereby en-

able the Board to determine whether to investigate and/or suspend the change. A second purpose of these provisions is to insure that all members of the traveling and shipping public receive equal and nondiscriminatory notice of tariff changes and to avoid unnecessary surprise changes in tariffs.

Interested persons have been afforded an opportunity to participate in the making of this rule, and due consideration has been given to all relevant matter presented. For the most part, objections to the amendment are based upon the additional expense and time that posting requires, the carriers contending that such time and expense are not justified by the public benefits to be received. The clear language of section 403(c), however, does not authorize us to waive the statutory requirements on such grounds. Moreover, the Board believes that the public is entitled to this opportunity to obtain information of impending tariff changes.

It is also argued that the public is not interested in the posting of tariff changes since the Board receives very few complaints from the public. This argument appears to the Board to be entirely without merit. The right to complain is accorded by statute and it may well be that this right is being frustrated because the carriers do not have the facilities in the field to let interested persons examine proposed tariff changes. The fact is, however, that the Board has received a number of letters complaining about the lack of prior notice in the field of proposed tariff changes.

Objection has also been made to the provision that a tariff publication which the Board has authorized to be filed on notice shorter than 30 days shall be posted by the carrier on like notice as authorized for filing. It is contended that such a requirement would substantially curtail or even eliminate tariff changes on short notice even when the Board approves such changes. We are, however, here concerned with a rule of general applicability. Under section 403(c) we may relax the 30-day requirement either by a rule of general applicability or in particular instances. Carriers filing applications for short notice with the Board are always free to request permission to post tariffs on less than the notice authorized for filing.

The Board believes, however, that a case has been made for a somewhat lesser period for posting tariffs outside the continental United States, its Territories and possessions. We feel justified in this regard in view of the substantial additional time as well as expense involved in getting tariffs to outlying stations in foreign countries. Accordingly, this amendment also provides that the posting period shall be reduced to 25 days in such cases. Of course, to the extent that any treaty or foreign law requires a period longer than 25 days, such treaty or foreign law would govern.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 221 of the Economic Regulations (14 CFR Part 221), as follows, effective August 8, 1959:

By amending § 221.171 to read as follows:

§ 221.171 Posting at stations, terminals, or offices, other than principal or general office.

(a) Each carrier shall post and make available for public inspection at each of its stations or offices which are in charge of a person employed exclusively by the carrier, or by it jointly with another person, and at which tickets for passenger transportation are sold, or at which property is received for transportation, all tariff publications which have been issued but are not yet effective and all of the currently effective tariffs to which it is a party. A carrier will be deemed to have complied with the requirement that it "post" tariffs, if it maintains at each station or ticket office a file in complete form of all tariff publications required to be posted.

(b) Each tariff publication issued shall be posted by each carrier party thereto at least 30 days before its effective date, except that in the case of carrier offices or stations outside the continental United States, its territories and possessions, the time shall not be less than 25 days before the effective date of the tariff, and except that a tariff publication which the Board has authorized to be filed on shorter notice shall be posted by the carrier on like notice as authorized for filing.

(Sec. 204(a), 72 Stat. 743, 49 U.S.C. 1324. Interpret or apply sec. 403, 72 Stat. 758, 49 U.S.C. 1373)

By the Civil Aeronautics Board.[1]

[SEAL] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 59-5721; Filed, July 9, 1959; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7223 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Greenwich Book Publishers, Inc., et al.

Subpart—*Advertising falsely or misleadingly:* § 13.15 *Business status, advantages, or connections:* Advertising and promotional services; cooperative nature; organization and operation; personnel or staff; publication services; unique or special status or advantages; § 13.60 *Earnings and profits;* § 13.205 *Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Greenwich Book Publishers, Inc., et al., New York, N.Y., Docket 7223, June 12, 1959]

In the Matter of Greenwich Book Publishers, Inc., a Corporation; The American Press, a Corporation, and Carl Buehler, Edwin Ezorsky and Lyla Ezorsky, Individually and as Officers of Said Corporations

This proceeding was heard by a hearing examiner on the complaint of the Commission charging two affiliated New York City publishers with representing falsely that they operated a publishing plan under which they shared expenses with authors, their misrepresentations including such matters as so-called "royalties", the nature, size and operation of the business, and the effectiveness of the publicity and promotional aid purportedly rendered author-customers.

After acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on June 12 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Greenwich Book Publishers, Inc., a corporation, The American Press, a corporation, and their officers, and Carl Buehler, Edwin Ezorsky, and Lyla Ezorsky, individually and as officers of said corporate respondents, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the solicitation of contracts for the printing, promotion, sale, and distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act and in connection with the printing, promotion, sale, and distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that:

1. They operate a cooperative publishing plan in which they share with the author in the expense of editing, printing, binding, promotion, and sale of the book, or that they are partners with the author;

2. They publish on a partial subsidy basis;

3. Under their plan of publication an author will recover his or her entire investment in the publication of his or her book, except in rare instances;

4. They bind all the copies listed in the contract of the first edition of an author's book;

5. Their organization has numerous employees, or that they have an art or sales department; or that they have any other department, unless such is the fact;

6. They accept and have accepted for publication only those manuscripts with merit or sales appeal possibilities; or that they "risk" their own money in publishing authors' manuscripts;

7. They have a board of editors or that the reports of their readers are "Editorial reports"; that their reports are impartial or a full and frank disclosure of the merit and sales potential of the submitted manuscript;

8. They have publicity and promotion departments, or that their promotion and sales reach any significant number of book trade outlets in North America;

9. They reinforce their sales promotion of authors' books with national-direct mail drives;

10. They have dealings with retail stores, libraries, universities, wholesalers,

[1] Gurney, Vice Chairman, dissented.

or department stores except to a limited extent, or that retail stores, libraries, universities, wholesalers, and department stores buy any great number of the books published through respondents;

11. Authors' books published through them have been selected for sale to or through book clubs for the membership thereof or that they sell or have sold reprint rights to their authors' books to pocket book reprint companies;

12. They sell or have sold subsidiary rights to their authors' books to foreign publishers, television producers, motion picture studios, digest or serialized periodicals;

13. They pay their authors a royalty of 40 percent or any other percentage or sum until after the author recoups and is reimbursed for his or her investment;

14. They arrange for reviews of their authors' books published through them in key periodicals; or any other periodicals, unless such is the fact;

15. They offer an author an exclusive book service or one which is different from that of other subsidy publishers;

16. They have never sold at reduced prices, or otherwise disposed of, any of their authors' poetry, Christian or fiction books for lack of continued sales;

17. They are accredited with large book wholesalers, jobbers, or retail outlets to any significant extent.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: June 9, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-5705; Filed, July 9, 1959; 8:46 a.m.]

[Docket 7418 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Max Grodnick Textile Corp. et al.

Subpart—*Concealing, obliterating, or removing law-required and informative marking:* § 13.525 *Wool products tags or identificaton.* Subpart—*Misbranding or mislabeling:* § 13.1212 *Formal regulatory and statutory requirements:* Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1845 *Composition:* Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68-68(c)) [Cease and desist order, Max Grodnick Textile Corp. et al., New York, N.Y., Docket 7418, June 12, 1959]

In the Matter of Max Grodnick Textile Corp., a Corporation; Henry Gewirtz Textile Corp., a Corporation; Fleet Fabrics, Inc., a Corporation; Makel Textiles, Inc., a Corporation; and Joseph Klein and Frances Klein, Individually and as Officers of Above Corporations, and Max Klotz, Max Grodnick, Stanley Kane and Seymour Gewirtz, Individually

This proceeding was heard by a hearing examiner on the complaint of the Commission charging distributors in New York City with violating the Wool Products Labeling Act by removing, prior to sale, tags attached to wool products when delivered to them, and by failing in other respects to comply with the labeling requirements.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on June 12 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Max Grodnick Textile Corp., a corporation; Henry Gewirtz Textile Corp., a corporation; Fleet Fabrics, Inc., a corporation; and Makel Textiles, Inc., a corporation, and their officers, and Joseph Klein, and Frances Klein, individually and as officers of said corporations, and Max Grodnick, Stanley Kane, and Seymour Gewirtz, individually, and respondents' representatives, agents, and employees, directly or through any corporate device, in connection with the introduction, or the offering for sale, sale, transportation or distribution, in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act, of piece goods or other "wool products" as "wool products" are defined in the Wool Products Labeling Act, do forthwith cease and desist from:

A. Misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of their constituent fibers contained therein;

2. Failing to affix securely on each such product a stamp, tag, label, or other means of identificaton showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of the total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where the percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool product, of any nonfibrous loading, filling, or adulterating matter; and

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof, in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

B. Causing or participating in the removal of mutilation of any stamp, tag, label or other means of identification affixed to any wool product pursuant to the provisions of the Wool Products Labeling Act of 1939, with intent to violate the provisions of said Act.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Max Klotz.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the above-named respondents except Max Klotz shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: June 1, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-5706; Filed, July 9, 1959; 8:46 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER F—ENROLLMENT

PART 46—ENROLLMENT OF INDIANS OF THE RINCON, SAN LUISENO BAND OF MISSION INDIANS IN CALIFORNIA

Preparation, Approval and Maintenance of Roll

On page 1158 of the FEDERAL REGISTER of February 14, 1959, there was published a notice of intention to add Part 46 to Title 25 of the Code of Federal Regulations. The purpose of the regulations is to govern the preparation of a roll of the Rincon, San Luiseno Band of Mission Indians in California.

Interested persons were given an opportunity to submit their views, data, and arguments concerning the proposed regulations within 30 days from the date of publication of the notice to the Commissioner of Indian Affairs, Department of the Interior, Washington 25, D.C.

Several suggestions pertaining to the proposed regulations were received within the period specified. The suggestions have been thoroughly considered since the expiration of the 30-day period. As a result of such consideration it was determined that the suggestions would be very helpful in the implementation of the regulations, and would be incorporated therein.

To clarify the effective date of the regulations the wording of the first sentence of § 46.4 *Application for enrollment,* has been revised to read: "A

person who believes that he, or a minor, or a mental incompetent is entitled to enrollment with the Band, may within ninety (90) days from the date of publication of this part of the FEDERAL REGISTER, file with the Field Representative a written application for enrollment in this Band."

Section 46.4 has also been revised by adding as the penultimate sentence in the first paragraph of that section: "If the Area Director has knowledge of a minor or mental incompetent for whom an application has not been filed within the 90-day period, he shall file an application for that person and submit it to the Enrollment Committee."

This addition was made in order that the interests of minors and mental incompetents might be adequately protected.

Section 46.11 *Action by the Secretary,* has been clarified by adding the words "on the roll" between the words "enter" and "the" in the second sentence of that section. With the revision the sentence will read as follows: "The Director is authorized to enter on the roll the name of any such person whose appeal has been granted when so directed by the Secretary."

It was the intent in § 46.14 *Current membership roll,* to provide for the addition to the roll of the names of children born subsequent to July 21, 1957. Therefore, to clarify this point we have added "born after July 21, 1957," between the words "children" and "who" in the first sentence of § 46.14, which now reads: "The roll shall be kept current by striking therefrom the names of persons who have relinquished in writing their membership in the Band and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Director and by adding thereto the names of children born after July 21, 1957, who meet the membership requirements set forth in § 46.5."

The proposed regulations are hereby adopted, as so revised, and are set forth below. These regulations will become effective upon publication in the FEDERAL REGISTER.

ELMER F. BENNETT,
Under Secretary of the Interior.

JULY 2, 1959.

Sec.
46.1 Purpose.
46.2 Definitions.
46.3 Preparation of roll.
46.4 Application for enrollment.
46.5 Persons to be enrolled.
46.6 Enrollment Committee election.
46.7 Review of applications by Enrollment Committee.
46.8 Determination of eligibility and enrollment by Director.
46.9 Appeals.
46.10 Action by the Commissioner.
46.11 Action by the Secretary.
46.12 Preparation and approval of roll.
46.13 Certificate.
46.14 Current membership roll.
46.15 Use of approved roll.

AUTHORITY: §§ 46.1 to 46.15 issued under secs. 463 and 465 Revised Statutes, 25 U.S.C. 2 and 9.

§ 46.1 Purpose.

The regulations in this part shall govern the enrollment of persons in the Rincon, San Luiseno Band of Mission Indians in California as of July 21, 1957.

§ 46.2 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of the Interior.

(b) "Commissioner" means the Commissioner of Indian Affairs.

(c) "Director" means the Area Director, Sacramento Area Office.

(d) "Field Representative" means the Area Field Representative, Riverside, California.

(e) "Band" means the Rincon, San Luiseno Band of Mission Indians.

(f) "Enrollment Committee" means a committee of three (3) members of adult age and now on the census roll of the Rincon, San Luiseno Band, to assist in enrollment.

(g) "Census Roll" means the 1940 census roll of the Rincon, San Luiseno Band of Mission Indians, revised as of July 21, 1957.

§ 46.3 Preparation of roll.

The Director shall prepare and submit for approval by the Secretary, a roll of the members of the Band.

§ 46.4 Application for enrollment.

A person who believes that he, or a minor, or mental incompetent, is entitled to enrollment with the band, may within ninety (90) days from the date of publication of this part in the FEDERAL REGISTER, file with the Field Representative a written application for enrollment in this Band. Application forms may be obtained from the Field Representative or a member of the Enrollment Committee. The form of the application shall be prescribed by the Director. The execution of each application shall be witnessed by two (2) disinterested persons who are not members of the household of the applicant. An application on behalf of a minor or mental incompetent shall be executed by a parent, natural guardian, or other person responsible for his care. If the Area Director has knowledge of a minor or mental incompetent for whom an application has not been filed within the 90-day period, he shall file an application for that person and submit it to the Enrollment Committee. Each application shall contain the following information:

(a) The name and address of the applicant, and if the applicant is a minor or mental incompetent, the name, address, representative capacity and blood relationship of the person executing the application on behalf of the minor or mental incompetent.

(b) The date and place of birth of the applicant.

(c) The applicant's degree of Indian blood and degree of Indian blood of the Rincon, San Luiseno Band.

(d) The applicant's allotment number, date of trust patent, or date and number of assignment approved by the Tribal Council.

(e) If the applicant is unallotted, the names of relatives who may have received allotments, their blood relationship to the applicant, and the name of the reservation where such relative may be allotted.

(f) The name and degree of Indian blood of each parent of the applicant, the degree of Indian blood of the Rincon, San Luiseno Band, the name of the tribe or band with which each parent of the applicant is enrolled or affiliated, and the names and addresses of any brothers and sisters of the applicant who may have filed applications for enrollment.

(g) If the applicant has previously been enrolled on the approved roll of Indians of California, the number thereon of the applicant.

§ 46.5 Persons to be enrolled.

The names of persons in any of the following categories who were alive on July 21, 1957, shall be placed on the membership roll of the Rincon, San Luiseno Band of Mission Indians, provided he or she is not an enrolled member with some other tribe or band.

(a) Indians whose names appear as members of the Band on the census roll.

(b) Indians who have received allotments on the Rincon Reservation.

(c) Descendants of Indians whose names appear as members of the Band on the census roll, provided such descendants have ⅛ or more degree of Indian blood of the Band.

(d) Descendants of allottees having ⅛ degree or more of Indian blood of the Band.

(e) If an Indian who applies for enrollment under the provisions of paragraph (a), (c), or (d) of this section has received in his or her own right an allotment with some band or tribe, and has not relinquished such allotment prior to July 21, 1957, such person shall not be enrolled. Ownership of an allotment or an interest in an allotment acquired through inheritance shall not, however, be a bar to enrollment.

§ 46.6 Enrollment Committee election.

A person whose name now appears as a member on the census roll of the Band shall be entitled to vote at a time and place and in a manner designated by the Band or the Director, to elect three (3) persons, twenty-one (21) years of age or older, whose names appear on such roll, as members of the Enrollment Committee and two (2) persons to act as alternates to the Committee. Three (3) persons receiving the highest number of votes shall constitute the Enrollment Committee of the Band, and the persons receiving the fourth and fifth highest number of votes shall serve as alternate members of the Committee. The person receiving the highest number of votes shall be the chairman; the person receiving the next highest number of votes shall be the secretary.

§ 46.7 Review of applications by Enrollment Committee.

The Field Representative shall refer duly filed applications for enrollment to the Enrollment Committee. The Enrollment Committee shall review each such application and may require an applicant to furnish additional information in writing or in person to assist the Enrollment Committee to make a recommendation. The Enrollment Committee shall file with the Director, through the Field Representative, those

applications which it approves and with those applications not approved shall submit a separate report stating reasons for disapproval. These applications, whether approved or disapproved, shall be filed with the Director within thirty (30) days from receipt of the applications by the Committee.

§ 46.8 Determination of eligibility and enrollment by Director.

The Director shall review the reports and recommendations of the Enrollment Committee and shall determine the applicants who are eligible for enrollment in accordance with the provisions of § 46.5. The Director shall transmit for review to the Commissioner and for final determination by the Secretary, the reports and recommendations of the Enrollment Committee relating to applicants who have been determined by the Director to be eligible for enrollment against the report and recommendation of the Enrollment Committee, and the reports and recommendations of the Enrollment Committee relative to applicants who have been determined by the Director not to be eligible for enrollment against the reports and recommendations of the Enrollment Committee, with a statement of the reasons for his determination.

§ 46.9 Appeals.

If the Director determines that an applicant is not eligible for enrollment in accordance with the provisions of § 46.5, he shall notify the applicant in writing of his determination and the reasons therefor. Such applicant shall then have thirty (30) days from the date of mailing of the notice to him to file with the Director an appeal from the rejection of his application, together with any supporting evidence not previously furnished. The Director shall forward to the Commissioner the appeal, supporting data, his recommendation thereon, and the report and recommendation of the Enrollment Committee on the application.

§ 46.10 Action by the Commissioner.

When upon review the Commissioner is satisfied that the appellant meets the provisions of § 46.5 he shall so notify the appellant in writing, and the Director is authorized to enter his name on the roll. If the Commissioner determines that an appellant is not eligible for enrollment in accordance with the provisions of § 46.5 the appellant shall be notified in writing of his decision and the reasons therefor. The appellant shall then have thirty (30) days from the date of mailing of the notice to file an appeal with the Secretary.

§ 46.11 Action by the Secretary.

The decision of the Secretary on an appeal shall be final and conclusive and the appellant shall be given written notice of the decision. The Director is authorized to enter on the roll the name of any such person whose appeal has been granted when so directed by the Secretary.

§ 46.12 Preparation and approval of roll.

Upon notice from the Secretary that all appeals have been determined the Director shall prepare in quintuplicate a roll of members of the Band, arranged in alphabetical order. The roll shall contain for each person: Name, address, sex, date of birth, and degree of Indian blood of the Rincon, San Luiseno Band of Mission Indians. The Director shall submit the roll to the Secretary for approval. Four (4) copies of the approved roll shall be returned to the Director, who shall make one (1) copy available to the Chairman of the Tribal Council and one (1) copy available to the Chairman of the Enrollment Committee.

§ 46.13 Certificate.

The Director shall affix a certificate to the approved roll certifying that the roll, to the best of his knowledge and belief, contains only the names of Indians entitled to enrollment with the Band.

§ 46.14 Current membership roll.

The roll shall be kept current by striking therefrom the names of persons who have relinquished in writing their membership in the Band and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Director and by adding thereto the names of children born after July 21, 1957, who meet the membership requirements set forth in § 46.5. It will not be necessary for the Secretary to approve each addition to or deletion from the current membership roll. However, before the roll may be used for the distribution of tribal assets it shall be submitted to the Secretary for his final approval.

§ 46.15 Use of approved roll.

Unless otherwise directed by Congress, the approved roll shall be used for all official purposes, including the allotting of tribally-owned land.

[F.R. Doc. 59-5707; Filed, July 9, 1959; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER C—CLAIMS AND ACCOUNTS

PART 836—CLAIMS AGAINST THE UNITED STATES

Investigating and Processing Claims

Sections 836.200 to 836.220 supersede §§ 836.1 to 836.6 (17 F.R. 3320, April 15, 1952).

Sec.

AUTHORITY: §§ 836.200 to 836.220 issued under sec. 1, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply 10 U.S.C. 939, 2731–2735, 9801–9806; 28 U.S.C. 2671–2680.

SOURCE: AFR 112-2, Mar. 26, 1959.

§ 836.200 Purpose.

Sections 836.200 to 836.220 establish responsibility for, and prescribe procedures to be followed in investigating and reporting all accidents and incidents arising out of Air Force activities which may result in claims.

§ 836.201 Definitions of terms.

(a) *Claim.* Any written demand for the payment of a sum of money, other than for ordinary obligations incurred by the Air Force in the regular procurement of services, supplies, equipment, or real estate. An oral demand may be considered a claim under the provisions of §§ 836.51 to 836.56 and §§ 836.61 to 836.78 (AFR's 112–5 and 112–6).

(b) *Small claim.* A claim for property damage arising within the United States, its territories or possessions, which is presented for $250 or less; or a claim arising outside the United States, its territories or possessions, which is presented for $250 or less.

(c) *Claimant.* An individual, partnership, association, corporation, country, State, Territory, or their political subdivision. The term does not include the United States Government or any of its instrumentalities, except for claims in favor of the United States (see §§ 837.1 to 837.7 (AFR 112–9) and §§ 837.11 to 837.16 (AFR 112–12) of this chapter and §§ 836.141 to 836.148 (AFR 112–12).

(d) *Military personnel.* Individual members of the Air Force.

(e) *Civilian personnel.* Civilian employees of the AF paid from appropriated funds. However, this term also may include prisoners of war and interned enemy aliens engaged in labor for pay, and volunteer workers and others serving as employees of the AF without compensation, except for claims under §§ 836.90 to 836.101 (AFR 112–7).

(f) *Scope of employment.* Acts or omissions of AF military or civilian personnel expressly or impliedly directed or authorized by competent authority.

(g) *Noncombat activities.* Any authorized AF activities, other than combat activities (see paragraph (h) of this section). However, under §§ 836.11 to 836.24 (AFR 112–3) and §§ 836.61 to 836.78 this term relates to statutory provisions in 10 U.S.C. 2733 and 2734. These provisions are given special meaning and relate to certain non-negligence activities that are peculiarly AF activities having little parallel in civilian pursuits and historically have been considered as fur-

nishing a proper basis for paying claims. Ordinary traffic accident and other tort-type claims are not included in this interpretation, although such claims may be payable under other statutory provisions.

(h) *Combat activities.* Activities resulting from action by the enemy, or by United States Armed Forces engaged in, or in immediate preparation for, impending armed conflict.

(i) *Inhabitant of a foreign country.* A person who dwells or resides in a foreign country (see §§ 836.61 to 836.78).

(j) *Settle.* To consider, ascertain, adjust, determine, and dispose of a claim, whether by approval or disapproval in whole or in part.

(k) *Approving authority.* Any officer designated by the Secretary of the Air Force, and any foreign claims commission appointed by him or his designee, to settle certain claims.

§ 836.202 Other claims and procedures.

(a) *Air National Guard claims.* (1) Claims arising out of activities of the Air National Guard, when its units are called or its members are ordered into active Federal service in the manner provided by statute, will be investigated and processed in the same manner as any other claim under this subchapter.

(2) When the ANG has not been called or ordered into active Federal service, claims arising out of the activities of military or civilian personnel of the ANG of a State, Territory, or the District of Columbia, including caretakers or clerks, are not the responsibility of the AF. Such claims will be referred, without investigation, to the Adjutant General of the political entity concerned. Included in this category are property damage claims that arise incident to an ANG camp of instruction, since such authorities are required to process these claims and refer them to the Chief of the National Guard Bureau. However, a copy of the referral letter and claim will be forwarded to The Judge Advocate General at the following address: Hq USAF (AFCJA–13), Washington 25, D.C.

(3) Claims arising out of the activities of AF military personnel assigned to ANG units will be processed as any other claim against the AF.

(b) *AFROTC claims.* Claims arising out of the activities of Air Force Reserve Officers Training Corps (AFROTC) student members are the responsibility of the educational institution where enrolled, except when these student members are engaged in AF flight instruction or training camp duties. Certain type injury claims of AFROTC student members are covered under the Federal Employees Compensation Act (70 Stat. 805; 5 U.S.C. 802). Claims against the United States arising out of the military activities of USAF personnel assigned to AFROTC units will be processed as any other claim against the AF.

(c) *Contract claims.* Claims which arise from AF contracts, express or implied, ordinarily are covered under Subchapter J of this chapter, and are not payable under this subchapter. (However, see paragraph (i) of this section, and §§ 836.11 to 836.24; §§ 836.61 to 836.78; §§ 836.141 to 836.148 and §§ 836.161 to 836.165 and §§ 837.11 to 837.16 of this chapter.)

(d) *Contractor employees salary claims in security cases.* Salary reimbursement claims in security cases of AF contractors' employees will be processed pursuant to current AF directives.

(e) *Post Office Department claims.* Claims of the Post Office Department for losses caused by unbonded AF military personnel assigned to APO duty will be processed under current AF directives.

(f) *Laundry and dry cleaning establishment claims.* Claims involving AF laundry and dry cleaning establishments will be processed and disposed of under current AF directives. When the facility does not operate under the industrial fund, or if the claim is not the type that can be settled by the laundry officer, the claim will be considered under current AF directives or §§ 836.11 to 836.24 or §§ 836.90 to 836.101, as appropriate. In such cases, the purported "waiver" or "agreement" printed on the laundry ticket will not be given any legal effect.

(g) *Nonappropriated fund activity claims.* Claims arising out of nonappropriated fund activities will be processed pursuant to §§ 836.161 to 836.165, which includes compensation, tort, and contract claims.

(h) *Loss or destruction of Government property claims.* Claims by the AF against military or civilian personnel for loss or destruction of Government property will be processed under current AF directives. Other claims in favor of the AF will be considered under §§ 837.1 to 837.7 and §§837.11 to 837.16 of this chapter or §§ 836.141 to 836.148, as appropriate.

(i) *Real estate acquisition and disposition claims.* Claims for rent, damage, and other payments involving the acquisition and disposition of real property or interests therein by and for the AF will be processed in accordance with current AF regulations.

(j) *Claims generated by other United States armed forces.* (1) Claims presented to an AF base, installation, or corresponding unit for damage, injury, or death arising out of the activities of another United States Armed Force will be referred immediately, without investigation, to the nearest installation of that Armed Force for appropriate disposition.

(2) Exceptions are when the AF has been assigned responsibility for the settlement of claims in the area where the accident or incident occurred, or when it involved a claim under the Military Personnel Claims Act (see § 836.206 and §§ 836.61 to 836.78).

(k) *Claims under international agreements.* The governments of some foreign countries in which United States Armed Forces are stationed have by treaty or agreement waived or assumed, or may hereafter waive or assume, some claims against the United States. When this has occurred with respect to any claim, these is no authority to receive, consider, or pay the claim under United States laws or regulations which normally are available for its administrative settlement. However, when such governments have assumed responsibility for the settlement of certain claims generated by United States forces, AF authorities will investigate such matters in accordance with the implementing agreement between the U.S. and the government concerned. Ordinarily, the AF investigation will be limited to U.S. military sources, and the foreign government to any other sources.

(l) *Claims not otherwise provided for.* Any claim not provided for herein, or by any specific law, regulation, or appropriation available to the AF will be forwarded through claims channels to The Judge Advocate General of the Air Force for appropriate determination or action.

§ 836.203 Occurrences requiring investigation.

(a) *Noncombat accidents and incidents.* Investigation of AF noncombat service-connected accidents and incidents will be made immediately when:

(1) Property other than U.S. Government property is damaged, lost, or destroyed.

(2) U.S. Government property is damaged, lost, or destroyed under circumstances which may give rise to a claim in favor of the Government under §§ 836.141 to 836.148, or §§ 837.1 to 837.7 and §§ 837.11 to 837.16 of this chapter.

(3) Injury or death occurs to any person other than military or civilian personnel of the United States Armed Forces.

(4) A claim is presented or complaint made.

(5) Competent authority so directs, including requests for investigation of accidents or incidents by another United States Armed Forces or a foreign government authorized to settle claims under international agreements.

(b) *Investigations otherwise required.* Provisions of §§ 836.200 to 836.220 do not modify the requirements of any other directive relating litigation, line-of-duty, reports of fires, explosions, storms, aircraft accidents, surveys, ground safety, actions under Article 139 of the Uniform Code of Military Justice, board of officers proceedings, or disciplinary matters. When only such matters are involved, the action taken will be in accordance with the requirements of such other AF directive.

§ 836.204 Purpose of the investigation.

The investigation is made to ascertain, marshal, and preserve the facts of an accident or incident which has or may become the basis of a claim in favor of or against the United States. It should develop definitive answers to the basic questions: Who? What? Where? When? and Why? The investigator must have a working knowledge of pertinent principles of law and regulations which is sufficient to enable him to determine what facts are relevant and to seek them out.

§ 836.205 Extent of investigation.

A thorough and impartial investigation of the facts will be made. The circumstances of the particular case and the amount involved will determine the extent of investigation. When accidents or incidents give rise to a small claim it will not always be necessary to comply literally with all requirements of a formal

investigation. A claim in excess of the amount which may be settled administratively by the AF generally will require a more complete investigation than one which may be settled administratively.

§ 836.206 Claims presented by a member of another U.S. armed force.

A member of another U.S. armed force may present a claim to the AF for loss of personal property incident to his service under 10 U.S.C. 2732. If such a claim is presented at an AF installation which is the nearest military facility where claims may be presented, then the claim will be investigated under the provisions of §§ 836.200 to 836.220 and §§ 836.90 to 836.101, and forwarded through claims channels to The Judge Advocate General at the following address: Hq USAF (AFCJA-13), Washington 25, D.C.

§ 836.207 Presentation of claim.

(a) *Property damage.* (1) A claim for damage to, or loss or destruction of property may be presented by the owner of the property, his duly authorized agent or legal representative, or survivors, only as authorized in specific AF directives.

(2) As used in §§ 836.200 to 836.220, "owner" includes bailee, lessee, mortgagor, and conditional vendee, but does not include mortgagee, conditional vendor, nor others having title for purposes of security only. If more than one party has a real interest in the property or property right damaged, all must join in the claim.

(b) *Personal injury or death.* (1) A claim for personal injury may be presented by the injured person, his duly authorized agent, or legal representative.

(2) A claim based on death may be presented by the executor or administrator of the deceased's estate, or by any other person legally or beneficially entitled in accordance with local law governing the rights of survivors.

(c) *Insurance subrogees.* Claims of subrogees are governed by the provisions of this subchapter.

§ 836.208 Claim forms.

(a) *Presenting claim forms.* Claimant will present his claim in triplicate on authorized official forms; SF 95, Claim for Damage or Injury, or AF Form 529, Claim for Personal Property (see § 836.211). The following information will be included on these forms, where appropriate:

(1) In connection with claims presented under §§ 836.90 to 836.101, the address of the claimant will be that address at which claimant is most likely to receive his mail promptly.

(2) Facts of accident or incident, including date, place, property, and persons involved.

(3) Nature and extent of damage, loss, or injury, and amount claimed in a sum certain.

(4) Ownership of property or property right for which claim is presented.

(5) Cause or occasion of the accident or incident.

(6) Whether or not litigation has been instituted in any court on the subject matter of the claim, and, if so, the name and location of the court, style of the lawsuit, amount demanded by plaintiff, and the status or outcome of such litigation.

(7) Whether or not the damage or loss is covered in whole or in part by insurance, and, if covered, the amount of coverage and name and address of insurer; whether or not a claim has been presented to an insurer, and, if so, in what amount; and whether or not the insurer has or is expected to pay the claim.

(b) *Signatures on claim forms*—(1) *How to sign.* Claim forms will be signed in ink by the claimant, or in his name by a duly authorized representative. The signature will include the first name, middle initial (if any), and surname of both the claimant and the person signing the claim on his behalf. A married woman must sign her claim in her given name—for example, "Mary A. Doe" rather than "Mrs. John Doe." The claim, if presented by an agent or legal representative, will be presented in the name of the owner, be signed by the agent or legal representative, show the title or capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative—for example, "John Doe by Richard Roe, Attorney in Fact." The authority to present a claim will have been executed within 180 days of presentation of the claim.

(2) *Corporation claims.* A claim presented by a corporation will show the title or capacity of the corporate officer signing, and the corporate seal (if any) will be affixed to the claim form. When other than an officer of a corporate claimant signs the claim form on behalf of the corporation, a certification by a corporate officer that the person whose signature appears on the claim form is an agent of the corporation duly authorized to present and settle the claim will be presented with the claim, and the corporate seal (if any) will be affixed thereto.

(3) *Joint interests.* In states or countries where community property laws exist, both the husband and wife will sign the claim form when a claim is presented for property damage or personal injury to either spouse. Where joint tenancy of real property is recognized by law, both the husband and wife also must sign the claim form.

(4) *Insurance subrogation claims.* When an insurer has been subrogated to an interest in a claim, it may present its claim separately or jointly with the insured.

§ 836.209 Where to present claim forms.

The claim will be presented to the commander of the military or civilian personnel involved, if known, otherwise it will be presented to the commander of the unit or installation at or nearest to which the accident or incident occurred. If the accident or incident occurred in a foreign country where no AF unit is stationed, the claim will be presented to the United States Air Attache, any attache of the United States Armed Forces, or those Military Assistance Advisory Group personnel authorized to receive claims.

§ 836.210 Evidence to be submitted by claimant.

The claimant will submit competent evidence and information concerning the cause of the damage or injury for which claim is made, proof of ownership of property, and the correctness of the amount claimed.

(a) *Real property damage.* The following evidence and information are required, as indicated.

(1) *Proof of ownership.* (i) When the amount claimed for damage to or loss or destruction of real property does not exceed $1,000, proof of ownership ordinarily may consist of the claimant's statement or affirmation on the executed claim form that he had legal title to the property or property right on the date of the accident or incident giving rise to the claim, or a statement of his interest in the property or property right. If the claims officer has reason to believe that the claimant does not own the property or property right or have an interest for which a claim may be made, he will require the claimant to furnish additional evidence.

(ii) When the amount claimed for damage to or loss of destruction of real property exceeds $1,000:

(*a*) The claimant will be required to submit an affidavit to include:

(*1*) Legal description of the property.

(*2*) A statement that he had legal title to the property on the date of the accident or incident giving rise to the claim; if he did not have legal title, a statement of his interest on that date.

(*3*) A statement how title or other interest was acquired—such as by warranty deed, tax deed, court decree, lease, will, or otherwise.

(*4*) Date of any legal instrument or document conveying legal title or other interest to claimant.

(*5*) Name and location of office of record where instrument or document conveying title or other interest to claimant was recorded, date of recording, and book and page number where instrument was recorded.

(*6*) Statement whether or not he has the identical title or interest in the property as that held at the date of damage, destruction, or loss.

(*7*) Statement whether or not any other person has an interest or asserted interest in the property, and the name and address of such person and description of such interest.

(*8*) If any of the required items of information are not included, the claimant will explain their absence in his affidavit.

(*b*) If a single instrument or document of record exists which conveyed title or other interest to the claimant, the claimant will be required to submit a properly authenticated copy of such instrument or document.

(iii) The requirements set forth in subdivision (ii) of this subparagraph are not mandatory for claims considered under the provisions of 10 U.S.C. 2734 and §§ 836.61 to 836.78, or 10 U.S.C. 9801—9806 and §§ 836.141 to 836.148 and §§ 837.11 to 837.16 of this chapter, but may be utilized as a guide to establish ownership of real property.

(2) *Land and soil damage.* (i) Proof of ownership, as required by subparagraph (1) of this paragraph.

(ii) The cost of rehabilitation of the land and steps taken to effect rehabilitation are required, including a report on whether or not complete restoration was effected, cost of fertilizer, tillage, holes covered, persons doing work, and any additional damage caused during such rehabilitation.

(iii) If pasture or grazing land is involved, determine the value of the destroyed grasses. This ordinarily will require consideration of the length of time the claimant will be denied the use of the land for pasture or grazing purposes, whether or not substitute land is available reasonably to the claimant, expenses incurred by the claimant for rent or use of substitute land, loss of rents from the affected land, and other pertinent information.

(iv) In the event of permanent damage, or when a claim is made for a reduction in value of land, the claimant will be required to submit a statement from a qualified real estate appraiser of the before and after market value and the date of purchase and purchase price.

(3) *Crop losses.* (i) Proof of ownership, as required by subparagraph (1) of this paragraph.

(ii) Since crop yields cannot be accurately known until harvest time, certain information is essential in calculating a loss:

(*a*) Claimant's past production record.

(*b*) Average yield per acre for the affected crop in the county or locality where the land is located.

(*c*) Market price of the crop at maturity.

(*d*) Any special problems of irrigation involved.

(iii) A statement whether or not any crops involved were subject to any Federal or State production restrictions, allocations, aids, or benefits, and, if so, give details.

(iv) A statement showing any steps taken to minimize the loss—such as substitute planting where possible, harvesting, and crop and land rotation.

(v) A statement showing any loss of rentals, and any crop agreements involved in leased land.

(vi) Costs of planting, harvesting, preparation for marketing, and marketing will be thoroughly investigated and considered in determining actual monetary loss. Also, reference will be made to prior costs of the claimant and average local costs, prevailing market conditions at the time the crop would have been harvested, and the effect of any unfavorable weather conditions on crops in the claimant's area.

(4) *Houses, stores, barns, outbuildings, fences, or other structures affixed to the realty.* (i) Proof of ownership, as required by subparagraph (1) of this paragraph.

(ii) Photographs of the buildings or structures.

(iii) A detailed description of the damage is required.

(iv) Ordinarily at least two detailed written estimates of cost of repairs will be furnished by the claimant. However, one such estimate will be acceptable if it is not possible for the claimant to obtain more than one, or when only one is directed by the Staff Judge Advocate, Air Materiel Command, the Staff Judge Advocate of the command having claims responsibility for the area outside the United States, or the Chief of Claims Division, Office of The Judge Advocate General. If repairs have been accomplished, claimant will furnish the bill, receipt, or a copy thereof.

(v) Whether a building or other structure is repairable or has been destroyed is sometimes a question of fact which must be carefully considered:

(*a*) If it has been destroyed, the claimant will be required to submit written appraisals of the market value by two qualified real estate appraisers. These appraisals will include the date of construction, cost of construction, market value at time of destruction, local real estate conditions that may have affected market value, improvements made after original construction, and the condition of the structure at the time of destruction. Evidence as to reconstruction cost has probative value and may be considered.

(*b*) If it is not possible to obtain an appraisal, the measure of damage may be determined by using the reconstruction cost, less a deduction for depreciation. Depreciation is determined by the age of the destroyed building or other structure, as compared to its normal life expectancy. Depreciation schedules may be found in publications of the Internal Revenue Service or may be those employed in local business practices.

(vi) The damage to or destruction of a building or other structure used for commercial or residential purposes may give rise to a claim for loss of use:

(*a*) On residential structures, the file will include a detailed breakdown of the cost of rent for substitute quarters, and any extra expenses incurred for food, utilities, transportation, or any other item claimed. To permit determination of the damage, the file must include information concerning the period of time reasonably required to effect repairs or reconstruction, whether or not the claimant has made reasonable efforts to effect repairs or reconstruction, claimant's normal living expenses, expenses other than housing, food, and utilities, and whether or not such expenses were reasonable and necessary. When available, the claimant will be required to furnish the claims officer with bills, receipts, or other documentary evidence in support of such expenses.

(*b*) On commercial structures, the file will include a statement of the cost of rent for any necessary substitute structure, the period of time reasonably required to effect repairs or reconstruction, and whether or not the claimant has made reasonable efforts to effect repairs or reconstruction. When available, the claimant will be required to furnish the claims officer with documentary evidence in support of rental expenses.

(*c*) If a claim for loss of profits is made, the claimant will be required to submit an affidavit explaining in detail such alleged loss and the basis therefor, including comparison of profits for the year immediately preceding the damage and the period for which the loss is claimed.

(vii) If the claimant has effected repairs himself, the cost of materials used, the reasonable value of his labor, and any wages lost from regular employment to effect repairs may be considered in determining the damage.

(5) *Trees, grass, bushes, plants, or vines.* (i) Proof of ownership of the land, as required by subparagraph (1) of this paragraph.

(ii) Photographs of the damaged objects or area.

(iii) A detailed description of the damage is required.

(iv) *Trees, grass, bushes, plants, or vines not grown for commercial purposes.* When permanently damaged or destroyed, the claimant will be required to submit a written appraisal by a qualified real estate appraiser of the market value of the land immediately before and after damage or destruction. It is emphasized that the replacement cost of a tree not grown for commercial purposes is not the measure of damage for the loss of such tree.

(v) *Trees, grass, bushes, plants, or vines grown for commercial purposes.* (*a*) The evaluation of damage to or destruction of merchantable trees by a forest fire or other causes presents special problems. Such trees are generally classed as sawtimber, pulpwood, or young trees, depending upon their size. The measure of damage for sawtimber and pulpwood destroyed is stumpage—the market value of the tree standing in the forest. For young trees, it is generally the cost of replacement for destroyed trees, plus an allowance for lost growth. When any size tree is only damaged and it survives, an allowance may be made for lost growth. In fires, soil damage may also be considered. When possible, the claims officer will obtain a damage appraisal from a professional forester or other qualified individual. Advice and assistance may be obtained from the nearest United States Forest Service office.

(*b*) *Fruit and nut trees and vines grown in commercial orchards.* (*1*) When destroyed, the measure of damage generally is the loss of profits during the period required for a young tree or vine to reach bearing age, plus an allowance for removing the remains of the destroyed item and replacing it with a young tree or vine.

(*2*) Evaluation of the damage requires information concerning the type and number of trees or vines affected, total orchard or vineyard acreage, produce market prices, age of trees or vines at time of destruction, maturity period for the trees or vines, years of profitable bearing, cultivation, harvesting, and marketing costs, and any special factors peculiar to the locality.

(*c*) *Trees, bushes, plants, or vines grown in commercial nurseries.* When the item itself is merchantable and is destroyed, the local market value at the time of destruction must be determined.

(b) *Personal property damage.* The claimant will be required to submit the following evidence and information:

(1) Proof of ownership of personal property damaged, lost, or destroyed ordinarily may consist of the claimant's statement or affirmation on the executed claim form that he owned the property on the date of the incident giving rise to the claim, or a statement of his interest in the property. If the claims officer has reason to doubt the claimant's ownership, he will require the claimant to furnish additional evidence.

(2) A statement of the amount claimed for each item.

(3) For personal property which has been or can be economically repaired, an itemized receipt for payment of necessary repair costs, or an itemized written statement or estimate of the repair costs from a competent individual or firm.

(4) For personal property which is not economically repairable, or is lost or destroyed, a statement listing the month and year of purchase, purchase price of each item, and any salvage value.

(5) In determining awards for items of personal property not economically repairable, or lost or destroyed, the depreciation schedules (or Allowance List) published periodically by the Chief of the Claims Division, Office of The Judge Advocate General of the Air Force, will be used as a guide in establishing the depreciation on such items. No limitations on types, quantities, and amounts prescribed in such schedules shall have any application to claims considered under statutes and regulations available for the processing of claims, except in two instances:

(i) Claims considered under the provisions of 10 U.S.C. 2732 and §§ 836.90 to 836.101.

(ii) Personnel-type claims considered under the provisions of 10 U.S.C. 2733 and §§ 836.11 to 836.24 for losses which would otherwise be considered under the provisions of 10 U.S.C. 2732 and §§ 836.90 to 836.101 except for the fact that the person suffering the loss would not be a proper claimant under the latter statute and §§ 836.90 to 836.101.

(c) *Personal injury.* (1) In support of a claim for personal injury, including pain and suffering, the claimant will be required to submit the following evidence and information:

(i) A written report by his attending physician or dentist showing the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity.

(ii) Itemized and signed bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(iii) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(iv) When a claim is made for loss of time from work or loss of earnings, a written statement from his employer showing actual time lost from employment, whether he is a full- or part-time employee, and wages or salary actually lost.

(v) When claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(d) *Death.* (1) In support of a claim for death, including any pain and suffering preceding death, the claimant will be required to submit the following evidence and information:

(i) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of deceased.

(ii) An affidavit showing the following: (*a*) Deceased's employment or occupation at time of death, including monthly or yearly salary or earnings (if any), and length of time at last employment or occupation.

(*b*) Full names, birth dates, kinship, and marital status of all survivors, including identification of those survivors who were dependent for support upon deceased at the time of his death.

(*c*) Degree of support afforded by the deceased to each survivor dependent for support upon deceased at the time of his death.

(*d*) Educational benefits that survivors might reasonably have expected from deceased had he lived.

(*e*) Deceased's general physical condition before death.

(*f*) Any other evidence which would have a bearing on the determination of the proper claimants and award.

(iii) Itemized and signed bills for medical and burial expenses arising out of the accident or incident causing death, or itemized receipts of payment for such expenses.

(iv) In support of the element of pain and suffering incident to death, a physician's detailed statement concerning injuries suffered, duration of pain and suffering, drugs administered for pain, and deceased's physical condition in the interval between injury and death.

(e) *Recoveries from third parties.* If the claimant has elected to proceed against a third party as a joint tortfeasor, or has recovered from his insurer or common carrier, he will report the facts of such action and any amounts recovered with respect to items of damage which otherwise may properly be included in the claim against the Government (see §§ 836.11 to 836.24; §§ 836.31 to 836.46; §§ 836.51 to 836.56; §§ 836.61 to 836.78; §§ 836.90 to 836.101; and §§ 836.141 to 836.146, and §§ 837.11 to 837.16 of this chapter).

(f) *Domestic animals and fowl; fish and wildlife.* Claims for damage usually arise out of direct physical injury or shock caused by aircraft crashes, from fright or nervousness induced by low-flying aircraft, or from the spraying of insecticides. When noise or insecticides are involved, particular attention will be given to the matter of Air Force causation, since this is often the determining factor in disposition of the claim.

(1) *Death or injury to domestic animals and fowl.* (i) A statement will be required from the claimant that he owns the animals or fowl, and the number and description of those affected.

(ii) In injury cases, the claimant will be required to submit a detailed statement describing the injuries and cost of treatment, supported by any bills or receipts. The claimant also will be required to furnish written statements from any veterinarian in attendance showing the cause and extent of injuries or losses.

(iii) In the case of fur-bearing animals kept for pelting or sale, the claim usually will be based on destruction of the young by mothers, fur damage, reduced fertility of breeding stock resulting from shock, or fright or nervousness induced by noise. The claimant will be required to state:

(*a*) Length of time he has been in the business of raising the animals for sale or pelting.

(*b*) Name of any breeding or marketing association to which he may belong, and whether or not he occupies the position of an officer in the association.

(*c*) Number and type of adult and young animals at the location of the incident immediately before the incident.

(*d*) Number, type, and ages of all the adults and young animals affected.

(*e*) When destroyed, the market value of each animal and the expected profit on each animal.

(*f*) On each animal for which claim is made, whether the damage is based on the value of the animal for pelting or sale as breeding stock.

(*g*) Market prices received for his last sales of pelts or breeding stock prior to the incident.

(*h*) Name and address of his pelt buyer or market.

(*i*) Normal mortality rate per litter.

(2) *Loss of weight or production and other disabilities.* (i) When a claim is made for loss of weight or production of animals or fowl of commercial value, or for other disabilities suffered as the result of physical injury, shock, or nervousness, it must be determined if they are susceptible to such losses or disabilities, and, if so, for what period of time. The damage claimed is usually based on the reduced market value of the animal or fowl if raised for meat, or in the case of dairy animals and chickens, for reduction of milk or egg production, or reduction in quality of the product.

(ii) The local market price of the animals, fowl, or their produce at the time of damage will be obtained in all cases. Since a damaged claimant is only entitled to any loss of profits, all raising and marketing costs will be considered. Accurate determination of the damage requires a comparison of weight and production statistics of the alleged affected animals or fowl with those of the claimant's prior operations, and with statistics of the county or locality as to average weights and production.

(3) *Fish and wildlife.* (i) Claims for damage to fish and wildlife often will arise out of the use of insecticides or noise generated by aircraft. Therefore, particular attention will be given the matter of Air Force causation in these cases.

(ii) When a claim is made for loss of income from fish, oysters, or other marine life, or trapping, the claimant will be required to furnish an affidavit showing his profits from the previous three seasons.

(iii) When diminution in the value of land is alleged, the claimant will be re-

quired to submit written appraisals from at least two qualified persons.

(iv) Consideration will be given to fluctuations in population that are due to natural causes.

(g) *Excluded items.* The following items generally are not considered proper elements of damage within the meaning of claims regulations. However, the claimant will not be prevented from including itemized accounts and complete and substantiating evidence with regard to any such damage.

(1) Interest on any award will not be allowed.

(2) Cost of preparation and presentation of the claim, including but not limited to expenditures incident to obtaining evidence—such as fees for appraisals and estimates of damage, travel and telephone expenses in connection with presenting the claim, attorney fees, and the cost or value of the claimant's or another's time and labor in preparing the claim.

(3) Inconvenience, including but not limited to the monetary value alleged by the claimant for hardship, mental anguish, loss of use of noncommercial property, and other intangible damage and loss which may be considered punitive damages, as opposed to compensatory damages. In death claims, mental anguish may be a proper element of damage.

§ 836.211 Assistance to claimants.

A claim will not be rejected upon initial presentation for the reason that it is not on the proper form or does not include proper supporting evidence and information. Upon acceptance of such a claim, the claims officer will advise the claimant of the necessity for further documentation, and that the processing of the claim will necessarily be delayed pending receipt of this documentation.

§ 836.212 Investigation by claims officer.

(a) *Investigative procedure.* (1) Statements, bills, or estimates for necessary repair work from disinterested firms or individuals which are submitted by the claimant need not be certified as just and correct. However, they will be properly identified with regard to the qualifications of the maker, and a business letterhead or similar evidence ordinarily will suffice. If the claims officer believes these statements, bills, or estimates appear unreasonably high, unsuitable, or include estimates or repair for damage which did not result from the incident giving rise to the claim, the claims officer either will require the firm or individual submitting such statement, bill, or estimate to certify that it is just and correct, or require the claimant to furnish an additional estimate. If neither alternative is satisfactory, the claims officer will attempt to obtain an independent estimate.

(b) *Physical examination.* When a claim for personal injury is presented, with the consent of the injured person or his personal representative, the claims officer immediately will have a physical examination made of the injured person at a military medical facility, or by a physician from such a facility.

§ 836.213 Factors for determining compensation for damage to, or loss or destruction of property.

The fundamental principle to be applied in the determination of damage to property is that the claimant shall receive monetary compensation for the actual damage sustained.

(a) *Land damage*—(1) *Irreparable damage.* (i) If the land has been permanently damaged but its value has not been totally destroyed, the measure of the damage is the difference between its market value immediately before and after the damage.

(ii) If the value of the land has been totally destroyed, the measure of damage is the market value of the property immediately before its destruction.

(2) *Repairable damage.* (i) Recovery is measured by the amount necessary to repair the damage and put the land in substantially its condition immediately before the damage.

(ii) If the cost of repairs exceeds the market value immediately before the damage the meaure of recovery is the market value.

(b) *Grass, trees, bushes, plants, and vines*—(1) *Grown for noncommercial purposes.* Diminution in the market value of the land is the measure of damage for permanent damage to or destruction of grass, shade trees, fruit trees, nut trees, bushes, plants, and vines. This is determined by reference to the market value of the land immediately before and after the damage or destruction.

(2) *Grown for commercial purposes.* When the items are permanently damaged or destroyed, the measure of damage generally is the loss of profits on the produce; or, when the grass, tree, bush, plant, or vine is a merchantable item itself, it is generally the market value of the grass, tree, bush, plant, or vine. When the measure of damage is the loss of profits on the produce, an allowance may be made for the cost of removing a destroyed item and replanting grass or a young tree, bush, plant, or vine.

(c) *Buildings or structures*—(1) *Destruction of buildings or structures.* The measure of damage is the difference between the market value of the entire premises on which the building or structure is located immediately before and after its destruction, less any salvage value.

(2) *Damage to buildings or structures.* (i) When a damaged building or structure has been or can be repaired economically, the measure of damage is the cost of repairs necessary to restore it to substantially its condition immediately before the damage.

(ii) A building or structure is not considered repairable economically if the cost of repairs exceeds the market value immediately before the damage, less the salvage value of any materials. If it is not repairable economically, the measure of damage is the market value immediately before the damage, less any salvage value.

(d) *Farm or commercial crops.* The measure of damage to or destruction of annual growing crops is the market value of the crop at maturity, less the cost of planting, cultivating, harvesting, and marketing. In claims involving damage to perennial crops, the measure of damage is the value of the land with the crop, less its value after destruction of the crop.

(e) *Personal property*—(1) *Loss or destruction.* The measure of damage for the loss or destruction of articles of personal property ordinarily is the market value of the property at the time and place of loss or destruction.

(2) *Damage to personal property.* (i) When damaged personal property has been or can be repaired economically, the measure of damage is the cost of repairs necessary to restore it to substantially its condition immediately before the damage.

(ii) It is not considered repairable economically if the cost of repairs exceeds the market value immediately before the damage, less any salvage value.

(3) *Domestic animals or fowl.* (i) When they are injured, the allowable compensation is the reasonable expense of treatment necessary to restore them to substantially their condition immediately before the injury.

(ii) When they are permanently injured, the measure of damage ordinarily is the reduction in their market value at the time and place of injury.

(iii) When they are destroyed, the measure of damage ordinarily is the market value of the animal or fowl at the time and place of the loss.

(4) *Personal claims.* For the measure of damage to or loss or destruction of personal property when a claim is presented under the provisions of 10 U.S.C. 2732, see §§ 836.90 to 836.101.

(f) *Other damage.* In addition to the elements of damage enumerated above, certain other types of damage or loss may be considered under AF claims directives.

(1) *Loss of use.* When real or personal property used for commercial purposes or residential property is damaged or destroyed, compensation may be allowed for reasonable expenses incurred for necessary substitute property during the period reasonably required to effect repairs, rehabilitation, or reconstruction, and other necessary expenses.

(2) *Loss of profits.* (i) When real or personal property used for commercial purposes is damaged or destroyed, compensation may be allowed for loss of profits if such loss can be shown with reasonable certainty. Loss must not depend on the chance of trade, but upon the market value of commodities and other facts which are susceptible of definite proof.

(ii) Alleged profits which are merely conjectural, speculative, or incapable of being ascertained with any reasonable degree of certainty do not afford a proper basis for compensation.

(iii) Loss of profits is not a proper element of damage under §§ 836.141 to 836.148, or §§ 837.11 to 837.16 of this chapter.

(3) *Interference with or interruption of business.* In cases of interference with or interruption of business activities, compensation may be allowed for loss of profits when the loss is the proximate result of the accident or incident. The

amount of loss must be shown with reasonable certainty by competent evidence.

(4) *Diminution or appreciation in value as a result of repairs.* (i) If damaged real or personal property is repairable but cannot be completely restored, an allowance may be made for the measurable difference between its market value immediately before the incident and after repair, in addition to the cost or repair.

(ii) Conversely, if the damaged real or personal property has been appreciated in market value by repair, then the measure of damage is the cost or repair, less the amount by which the market value of the property has been increased.

(5) *Appraisal expenses.* (i) In the case of property damage or loss when the claimant has utilized the services of a professional private appraiser in the documentation and support of his claim, and has been billed or has paid for these services, a fee for the appraisal may be considered a compensable item of damage when all of the following conditions exist:

(*a*) The appraisal, in form and content, satisfactorily meets the legal basis for computing the measure of damage;

(*b*) The claimant is required by the claims officer to submit the appraisal;

(*c*) The appraisal is accepted and utilized by the AF at all stages of claims processing, and no other expense of time, money, or manpower is incurred by the AF for appraisal of the items concerned; and

(*d*) There is no indication that the appraiser could benefit otherwise than by his fee, nor would the fee be deducted from any repair bills submitted to the claimant.

(ii) The claims officer will not require the claimant to submit such an appraisal except:

(*a*) When the magnitude and complexity of the damage indicate the necessity for it, and

(*b*) When the claims officer is not able to obtain a reasonably accurate evaluation of the damage by his own efforts or the use of Government appraisers, or

(*c*) Unless otherwise required by §§ 836.200 to 836.220, or the Staff Judge Advocate, Air Materiel Command, the Staff Judge Advocate of the command having claims responsibility for the geographic area outside the United States, but including Alaska, or the Chief of the Claims Division, Office of the Judge Advocate General.

(iii) If an appraisal is required, no statement will be made to the claimant concerning compensation for the appraisal, except that if an inquiry is made the claimant may be informed only that a claim for the expenses incurred will be considered.

(iv) When a claim is presented under the provisions of 10 U.S.C. 2732, and the claimant is required to support his claim by submitting an estimate of repair, see §§ 836.90 to 836.101 for applicable instructions.

(v) The claimant may, of course, voluntarily submit an appraisal in support of his damage. In this event, any claim for expense of appraisal fees will be considered under the criteria mentioned in subdivision (i) of this subparagraph, for required appraisals.

(6) *Mitigation of damage.* When a claimant, in the exercise of reasonable diligence, has expended money to minimize his damage, an allowance may be made for such expenditures. The allowance must be reasonable in relation to the amount of damage suffered, and will depend upon the circumstances of the particular case.

(7) *Interest costs.* When, as the result of suffering injury or damage, it is necessary for a claimant to borrow money to defray the expenses of housing, food, clothing, or medical expenses for himself or the members of his household dependent upon him, the expense of reasonable interest costs may be allowed. To justify an allowance, the necessity for borrowing money must be clearly shown. No allowance will be made for the cost of borrowing money when the damage suffered is fully covered by insurance and the claimant may receive prompt compensation from the insurer upon timely application.

(8) *Fish and wildlife.* An allowance may be made either when it can be clearly shown that the claimant has suffered a loss of profits or diminution in the market value of his real property as the result of damage to or loss of the fish and wildlife which have their habitat thereon.

(9) *Registered or insured mail.* (i) The measure of damage for the loss or destruction of registered or insured mail is the market value immediately before the incident, plus the amount of registration, postage prepaid, insurance, or other special fees.

(ii) In case of damage only, or partial loss or destruction, the measure of damage is the market value immediately before the incident less any salvage value. However, if repairable economically, the measure of damage is the cost of repairs.

(iii) No prepaid postage or other fees are payable if actual delivery of the parcel or letter is made to the correct addressee.

(10) *Federal Tort Claims Act.* The measure of damage in claims cognizable under the provisions of 28 U.S.C. 2671–2680 and §§ 836.31 to 836.46, is determined by the law of the place where the act or omission occurred.

§ 836.214 Factors for determining compensation for personal injury or death.

(a) *Law of jurisdiction.* Ordinarily, the law of the jurisdiction (situs) where the accident or incident occurred will be used as a guide in determining awards for personal injury or death, with these exceptions:

(1) When the claim arises out of an accident or incident occurring within the US, its territories or possessions, and the claimant is a foreign national, the allowable compensation ordinarily will be determined by the law of the domicile of the claimant.

(2) When the claim arises out of an accident or incident occurring outside of the US, its territories or possessions, and is cognizable under the provisions of 10 U.S.C. 2733, the law of the domicile of the injured or deceased will be considered in determining the elements of the allowable compensation.

(3) When the claim arises under the circumstances of subparagraph (2) of this paragraph, except that it is cognizable under 10 U.S.C. 2734, and the claimant is a foreign national not an inhabitant of the country where the accident or incident occurred, the allowable compensation ordinarily will be determined by the law of the domicile of the claimant.

(b) *Elements of award.* In all cases involving personal injury and death the compensation allowable will include reasonable medical, hospital, and burial expenses necessarily incurred. Other elements which may be considered, as appropriate in accordance with paragraph (a) of this section, are compensation for loss of earnings and services, anticipated medical expenses, pain and suffering, diminution of earning capacity, physical disfigurement, loss of companionship, and mental anguish. In death cases no allowance will be made for punitive damages, but only for those elements which are compensatory in nature.

§ 836.215 Action if claim is withdrawn.

If the claim is withdrawn, the only papers that may be returned to a claimant are his original claim form and such supporting documents as the claimant has furnished. In no instance will reports of investigation or any other evidence not submitted by the claimant be furnished or exhibited to him. The claims officer will make and retain for the file copies of any papers returned to the claimant. When documents—such as photographs of damage, and so forth—submitted by the claimant are returned, copies will be made and retained in the claim file (see §§ 836.219 and 836.220).

§ 836.216 Action on approved claims.

(a) *Settlement agreement.* (1) When either a claim within the settlement limits of the approving authority has been approved under the provisions of §§ 836.11 to 836.24; §§ 836.31 to 836.46; or §§ 836.61 to 836.78 for less than the amount claimed, or any personal injury claim is approved, the claimant will be required to sign a claims settlement agreement or other written release, in triplicate. In such cases, a settlement agreement or other written release will be obtained from the claimant.

(2) In claims considered under §§ 836.90 to 836.101, no settlement agreement is required or will be obtained.

(b) *Forwarding of checks.* Checks will not be forwarded to any person other than the payee without specific written authority from the payee. However, checks may be placed in the temporary custody of a representative of the AF for the purpose of delivery to the payee, or his duly authorized agent or legal representative.

§ 836.217 Action on disapproved claims.

If a claim is disapproved in whole or in part, the approving authority will notify the claimant in writing informing him of that action. The requirements of the claims directive under which the

disapproval action was taken will control the matter of any appeals (see §§ 836.11 to 836.24; §§ 836.31 to 836.46; §§ 836.51 to 836.56; §§ 836.61 to 836.78; §§ 836.90 to 836.101; or §§ 836.161 to 836.165).

§ 836.218 Transfers and assignments of claims.

Transfers and assignments of claims against the U.S. ordinarily are null and void by reason of the provisions of the Anti-Assignment Act (R.S., sec. 3477, as amended; 54 Stat. 1029, 65 Stat. 41; 31 U.S.C. 203), except assignments of claims by operation of law—such as receivers or trustees in bankruptcy or administrators of estates. A power of attorney or other purported authority to receive payment of all or a part of any claim in another's name is null and void. However, provisions of the statute do not apply to claims of insurance subrogees based on involuntary assignments arising under the provisions of 10 U.S.C. 2733 or 28 U.S.C. 2671–2680.

§ 836.219 Participation in the prosecution of claims and disclosure of information.

(a) *Aid or assistance prohibited.* Government personnel are forbidden to represent, aid, or assist any claimant or potential claimant in the prosecution or support of any claim against the U.S., or to receive any gratuity, share, or interest in any such claim (62 Stat. 697; 63 Stat. 280; 18 U.S.C. 283). This includes the disclosure or furnishing of information or documents which may be made the basis of a claim, or any evidence of record in a claim matter—such as reports of investigation, statements of witnesses, photographs, and medical reports.

(b) *Official duty exception.* The prohibition against furnishing aid and assistance does not apply to the proper discharge of official duties. Upon inquiry, a claimant may be advised how to present a claim, and evidence originally furnished by the claimant may be exhibited or returned to him or his representative (see §§ 836.211 and 836.215). Documentary evidence required to be submitted by a claimant under §§ 836.90 to 836.101 may be furnished on request, and when necessary, claimants may be assisted in preparing the claim form and assembling the evidence. Foreign governments may be assisted as provided in § 836.211.

§ 836.220 Prejudging claims.

Prior to final disposition of the claim by an approving authority, no recommendation will be revealed to the claimant, and no opinion will be expressed to him concerning whether the claim will be approved or disapproved. Except for the letter of disapproval to the claimant, no other document giving the basis for disapproval will be exhibited or furnished to the claimant or his representatives.

[SEAL] CHARLES M. McDERMOTT,
Colonel, U.S. Air Force, Deputy Director of Administrative Services.

[F.R. Doc. 59–5697; Filed, July 9, 1959; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1893]

[BLM 037410]

WISCONSIN

Revoking Executive Order of February 17, 1843 (Fort Crawford Military Reservation)

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The Executive order of February 17, 1843, which withdrew the following-described lands in Wisconsin in connection with the Fort Crawford Military Reservation is hereby revoked:

FOURTH PRINCIPAL MERIDIAN

T. 7 N., R. 4 W.,
Sec. 18.

The area described contains 628.06 acres.

The lands have been patented.

ROGER ERNST,
Assistant Secretary of the Interior.

JULY 2, 1959.

[F.R. Doc. 59–5709; Filed, July 9, 1959; 8:47 a.m.]

[Public Land Order 1894]

[Colorado 024416]

COLORADO

Reserving Lands Within Pike National Forest for Use of Forest Service for Research Purposes

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands within the Pike National Forest, Colorado, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining but not the mineral leasing laws nor disposals of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601–604), as amended, and reserved for use of the Forest Service, Department of Agriculture, for research projects being conducted, in furtherance of the act of May 22, 1928 (45 Stat. 699; 16 U.S.C. 581, 581a–581k) as amended:

SIXTH PRINCIPAL MERIDIAN

HURRICANE CANYON NATURAL AREA

T. 13 S., R. 68 W.,
Sec. 34, E½NE¼;
Sec. 35, W½, W½SE¼, and SE¼SE¼.

SADDLE MOUNTAIN NATURAL AREA

T. 14 S., R. 72 W.,
Sec. 8, SE¼, and E½SW¼;
Sec. 17, NE¼, and E½NW¼.

The areas described aggregate 1,000 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

JULY 2, 1959.

[F.R. Doc. 59–5710; Filed, July 9, 1959; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12867; FCC 59–666]

PART 9—AVIATION SERVICES

Authorization of Transmitters Which Have Not Been Type Accepted

1. A Notice of Proposed Rule Making in the above-entitled matter was released by the Commission on April 30, 1959. The Notice, which made provision for the filing of comments by May 19, 1959, was duly published in the FEDERAL REGISTER on May 5, 1959 (24 F.R. 3611).

2. The amendment permits the authorization of transmitters which have not been type accepted, (a) for use by Flight Test Stations, for limited periods, where justified on the basis of good cause shown; and (b) for use by CAP Stations. CAP Stations are separately licensed on frequencies made available for CAP operations by the Air Force.

3. Comments in this proceeding were filed by the Aeronautical Flight Test Radio Coordination Council (AFTRCC) and Aeronautical Radio, Inc. (ARINC).

4. The AFTRCC favored the proposal contained in the Notice of Proposed Rule Making and felt that it met the difficulties they anticipated as a result of type acceptance.

5. ARINC did not comment "for or against the merits of the Commission's proposals on the subject matter," but called "to the attention of the Commission the arrangements effected in the interest of the National Defense under Executive Order No. 10219 which established the Civil Reserve Air Fleet (CRAF). Under the CRAF Program, designated aircraft and others as required upon notice are available to the Government to furnish airlift to any part of the world in the event of national emergency." ARINC described three situations in which it felt a need existed for exemption of equipment, supplied by the Military, from the type acceptance requirement, as follows:

1. "Certain equipment, including various radio transmitters, are not normally maintained as a permanent part of the aircraft equipment but are stockpiled at strategic locations for immediate installation when and if such aircraft are used for various missions. Thus, upon call in time of emergencies, the designated aircraft are readied for the tactical or support missions for which they may be required. * * *. The radio equipment involved is the property of the government and would presumably operate on government frequencies."

2. Government owned "equipment maintained as a part of the normal installation of the aircraft in its commercial mission would be licensed by the aircraft operator and would also operate on non-Government frequencies."

3. "There is also the possibility that in time of emergency Government aircraft would be assigned to the airlines for the performance of missions in the National Defense."

6. It appears from the language in ARinc's comments that situations (1) and (3) would occur "in the event of National emergency." Therefore, the President could invoke his powers, under Section 606, if he saw fit, and suspend the type acceptance requirement. In the event that operations of this nature should occur under conditions where 606 was not in force, relief could be sought through a request for waiver of § 9.187 of the Commission's rules.

7. Under situation (2), the planned use by the airlines, of equipment not in compliance with the general objectives of the type acceptance program, for normal airline operations "in its commercial mission," would in effect, frustrate a significant portion of the type acceptance program. This is made particularly clear by ARinc's concern over the inability of certain equipment to comply with the current provisions of the Commission's rules relating to harmful interference. It must be pointed out that the previously described situation is distinctly different from that of the CAP where Government supplied equipment is separately licensed to operate on frequencies made available by the Air Force. The CAP exemption does not allow operation on regular civil aviation frequencies where a separate license is required and the type acceptance provisions of § 9.187 apply. If the type accepted equipment is capable of operating on CAP frequencies in addition to the regularly assigned frequencies for civil aircraft communications, the transmitters would, of course, be eligible for separate licensing to perform the two functions.

8. For the reasons stated above, the Commission feels that it is not necessary or proper, in this rulemaking, to give blanket exemption to equipment supplied by the Military to the air transport industry. Accordingly, the requests of ARinc, contained in its comments, have not been adopted.

10. Since the amendment herein ordered imposes no new requirement on any applicant or licensee, but rather relieves an existing restriction, such an amendment may be made effective less than 30 days after publication as provided in section 4(c) of the Administrative Procedures Act.

11. In view of the foregoing: *It is ordered,* Pursuant to the authority contained in sections 303(e), (f), and (r) of the Communications Act of 1934, as amended, that, effective July 1, 1959, Part 9 of the Commission's rules is amended as set forth below; and

12. *It is further ordered,* That the proceedings in Docket No. 12867 are hereby terminated.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: July 1, 1959.

Released: July 7, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Section 9.187(b) is amended to read as follows:

§ 9.187 Acceptability of transmitters for licensing.

* * * * *

(b) Except for transmitters used at (1) developmental stations, (2) flight test stations, for limited periods, where justified on the basis of good cause shown, and (3) Civil Air Patrol Stations, each transmitter utilized at a station authorized for operation after July 1, 1959, must be of a type which has been type accepted by the Commission for use in these services. Until January 1, 1965, types of equipment in use by a licensee prior to July 1, 1959, may continue to be used by the same licensee, his successors or assigns. These exceptions are provided on the express condition that the operation of stations using transmitting equipment not type accepted by the Commission shall not result in harmful interference due to the failure of such equipment to comply with the current technical standards of Subpart E of this part.

[F.R. Doc. 59-5724; Filed, July 9, 1959; 8:50 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[No. 32406]

PART 132—POWER BRAKES AND DRAWBARS (RAILROAD)

Initial Terminal Road Train Air Brake Tests

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 29th day of June A.D. 1959.

It appearing that the Association of American Railroads; The Atchison, Topeka and Santa Fe Railway Company, the Gulf, Colorado and Santa Fe Railway Company, and the Panhandle and Santa Fe Railway Company; the Great Northern Railway Company; the Northern Pacific Railway Company; the Southern Pacific Company; and the Union Pacific Railroad Company have filed petitions for modification and relief from the requirements of the 500-mile inspection requirement of § 132.12 of the rules for Inspection, Testing and Maintenance of Air Brake Equipment;

It further appearing, that on July 18, 1958 and August 25, 1958, notices of proposed rule making and hearing were issued in the above-entitled proceeding (23 F.R. 5696 and 6777) pursuant to section 4(a) of the Administrative Procedure Act (5 U.S.C. 1003), indicating the changes proposed;

And it further appearing, that a hearing on said petitions has been had and that said division has, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That 49 CFR Part 132 Power Brakes and Drawbars (Railroad) be, and it is hereby, amended by adding a note following the introductory paragraph of § 132.12 to read as follows:

NOTE: Relief from the 500-mile inspection requirement of this section will be granted upon an adequate showing by an individual carrier.

(Sec. 2, 32 Stat. 943, as amended; 45 U.S.C. 9)

And it is further ordered, That the petitions of The Atchison, Topeka and Santa Fe Railway Company, the Gulf, Colorado and Santa Fe Railway Company, the Panhandle and Santa Fe Railway Company, the Great Northern Railway Company, the Northern Pacific Railway Company, the Southern Pacific Company, and the Union Pacific Railroad Company for relief from the 500-mile inspection requirement of said § 132.12 be, and they are hereby, denied.

Notice of this order shall be given to the general public by depositing a copy hereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 59-5717; Filed, July 9, 1959; 8:48 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—ALASKA COMMERCIAL FISHERIES

PART 107—CHIGNIK AREA

Additional Escapement Permitted

Basis and purpose. The escapement of red salmon through the Chignik weir has fallen far behind the commercial catch in the Chignik Bay District, with an escapement count through July 6 of 98,000 red salmon compared with a commercial catch of 181,000 red salmon.

Additional escapement is needed. In order to obtain a proper spread in the required escapement, it is necessary to eliminate fishing on Friday in two successive weeks.

Therefore, § 107.9 is amended in paragraph (b) to read as follows:

(b) *Chignik Bay District.* From 6 p.m. Monday to 6 a.m. Wednesday; from 6 p.m. Wednesday to 6 a.m. Friday; and from 6 p.m. Friday to 6 a.m. Monday: *Provided,* That fishing is prohibited from

6 p.m. Wednesday to 6 a.m. Monday from July 9 to 19, inclusive, 1959.

Since immediate action is vital if the needed escapement is to be achieved, notice and public procedure on this amendment are impracticable, and it shall become effective immediately upon publication in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.).

(Sec. 1, 43 Stat. 464, as amended; 48 U.S.C. 221)

Dated: July 9, 1959.

RALPH C. BAKER,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 59-5789; Filed, July 9, 1959; 12:35 p.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 115]

REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

Sale of Timber

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the act of August 28, 1937 (50 Stat. 874) it is proposed to amend 43 CFR §§ 115.16, 115.17, 115.18, 115.22 and 115.24 as set forth below. These amendments are necessary to provide for the sale of set-aside timber to qualified small businesses in accordance with the Small Business Act of July 18, 1958 (72 Stat. 384).

These proposed amendments relate to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003); however, it is the policy of the Department of the Interior that, wherever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Land Management, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

ROGER ERNST,
Assistant Secretary of the Interior.

JULY 2, 1959.

1. Section 115.16 is amended by adding a new paragraph (f) to read as follows:

§ 115.16 Definitions.

* * * * *

(f) "Set-aside" means a designation of timber for sale which is limited to bidding by small business concerns as defined by the Small Business Administration in its regulations (13 CFR Part 121) under the authority of section 15 of the Small Business Act of July 18, 1958 (72 Stat. 384).

2. Section 115.17 is amended to read as follows:

§ 115.17 Annual timber sale plan.

Plans for the sale of timber from the O. and C. lands will be developed annually. Suggestions from prospective purchasers of such timber may be received to assist in the development of a sound annual timber sale plan. Such plan shall be advertised in a newspaper of general circulation in the area in which the timber is located. Such advertisement shall indicate generally the probable time when the various tracts of timber included in the plan will be offered for sale, set-asides if any, and the probable location and anticipated volumes of such tracts. The authorized officer may subsequently change, alter or amend the annual timber sale plan.

3. Paragraph (b) of § 115.18 is amended to read as follows:

§ 115.18 Advertising.

* * * * *

(b) The advertisement of sale shall state the location by legal description of the tract or tracts on which timber is being offered, the species, estimated quantities, the unit of measurement, appraised values, time and place for receiving and opening of bids, minimum deposit required, the access situation, the method of bidding, which tracts of timber if any have been designated as set-asides, the office where additional information may be obtained, and such additional information as the authorized officer may deem necessary.

4. Section 115.22 is amended to read as follows:

§ 115.22 Qualifications of bidders.

A bidder for the sale of timber must be (a) an individual who is a citizen of the United States, (b) a partnership composed wholly of such citizens, (c) an unincorporated association composed wholly of such citizens, or (d) a corporation authorized to transact business in the State of Oregon. A bidder must also have submitted a deposit in advance of sale as required by § 115.23. To purchase set-aside timber, the bidder must accompany his deposit with a self-certification statement that he is qualified as a small business concern as defined by the Small Business Administration in its regulations (13 CFR Part 121).

5. In § 115.24 the present paragraphs (c) and (d) are redesignated as paragraphs (d) and (e) and a new paragraph (c) is added as follows:

§ 115.24 Conduct of sales.

* * * * *

(c) Only bids of small business concerns which have filed a self-certification statement as required by § 115.22, may be considered for sales subject to set-asides. When no such bids are received, the timber may be sold under paragraph (e) of this section in the same manner as timber not previously made subject to a set-aside. When timber subject to a set-aside is not sold for any other reason, the sale may be rescheduled for a set-aside sale.

[F.R. Doc. 59-5708; Filed, July 9, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

HANDLING OF RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

Modified Minimum Grade Standards for Packed Raisins; Extension of Time

Notice is hereby given that there is being considered a proposal to extend until October 6, 1959, the modified minimum grade standards for certain packed raisins (24 F.R. 1408) which are to expire on August 31, 1959. The current modification, effective for the period from February 26, 1959, through August 31, 1959, is in accordance with the applicable provisions of Marketing Agreement No. 109, as amended, and Order No. 89, as amended (7 CFR Part 989), regulating the handling of raisins produced from raisin variety grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed extension was recommended by the Raisin Administrative Committee, established under the said amended marketing agreement and order.

Consideration will be given to data, views, or arguments pertaining to the extension which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than ten business days after publication of this notice in the FEDERAL REGISTER.

Unless the current modification, which became effective February 26, 1959, is continued in effect beyond August 31, 1959, the minimum grade standards prescribed in § 989.59(a)(2) (as modified (23 F.R. 6374) pursuant to § 989.59(b) and in effect prior to February 26, 1959) will become operative September 1, 1959. The current modification providing less severe restrictions for mechanical injury was made effective in order to facilitate the reconditioning and recovery of 1958 crop raisins damaged by rain. The time-consuming nature of the reconditioning and the desirability of reconditioning the raisins just prior to shipment now indicate that such modification should be extended beyond August 31. Since 1959 crop raisins are not expected to be available in substantial volume for shipment until about October 5, 1959, it is proposed that such modification be extended to and including such date.

The extension would permit the rain-damaged raisins held on September 1, 1959, to be reconditioned and shipped in response to trade demand prior to adequate supplies of 1959 crop raisins becoming available for shipment. It could prevent hardship to producers whose raisins otherwise would not be reconditioned. On October 6, 1959, the minimum grade standards for packed raisins in effect prior to February 26, 1959, would become operative, and apply to raisins shipped on and after such date.

It is proposed that the further modification of minimum grade standards for packed raisins (24 F.R. 1408), pursuant to the authority contained in § 989.59 (b), be continued in effect beyond August 31, 1959, until October 6, 1959.

Dated: July 7, 1959.

S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 59-5722; Filed, July 9, 1959; 8:49 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Forest Service

CERTAIN LANDS ACQUIRED UNDER TITLE III, BANKHEAD-JONES FARM TENANT ACT

Suitability for National Forest Purposes

Pursuant to the requirement of Executive Order 10445, dated April 10, 1953 (18 F.R. 2069), except as to lands within the States of Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Washington, and Wyoming, all lands within the exterior boundaries of national forests which have been acquried through exchange since June 30, 1958, or that are in the process of being acquired through exchange by the Forest Service on behalf of the United States under authority of Title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1013), are hereby determined to be suitable for national forest purposes.

RICHARD E. MCARDLE,
Chief, Forest Service.

JULY 2, 1959.

[F.R. Doc. 59-5715; Filed, July 9, 1959; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11747, 12936; FCC 59-667]

SANGAMON VALLEY TELEVISION CORP.

Memorandum Opinion and Order Designating Matter for Hearing on Stated Issues

In the matter of amendment of § 3.606, Table of Assignments, Television Broadcast Stations (Springfield, Ill.-St. Louis, Mo.), Docket No. 11747; in the matter of proceedings pursuant to remand in Sangamon Valley Television Corp. v. United States and Federal Communications Commission, et al. (Case No. 13992, May 8, 1959), Docket No. 12936.

1. The Commission's Report and Order in the above-entitled Docket No. 11747, dated March 1, 1957, has been vacated by the United States Court of Appeals for the District of Columbia Circuit in its decisions of May 8, 1959 in Sangamon Valley Television Corp. v. United States and Federal Communications Commission, et al. (Case No. 13992).

2. By its decision, the Court of Appeals, upon the basis of certain testimony before the Subcommittee on Legislative Oversight of the House Committee on Interstate and Foreign Commerce, has remanded the proceeding in Case No. 13992 to the Commission * * * "with instructions to hold, with the aid of a specially appointed hearing examiner, an evidential hearing to determine the nature and source of all ex parte pleas and other approaches that were made to Commissioners while the former proceeding was pending, and any other factors that might be thought to require either disqualification of some Commissioners from participating in the reopened proceeding or disqualification of some parties from receiving any award that may ultimately result."[1]

3. The Commission is aware that the hearings before the Subcommittee on Legislative Oversight were not full and complete evidentiary hearings and that the parties affected thereby are entitled to make a full evidentiary record, with the right of cross-examination, on the matters referred to in the Court's decision.[2]

4. The Commission proposes to direct the holding of an evidentiary hearing before a specially appointed hearing examiner to be designated by the Commission, at a time and place to be specified in a subsequent order, upon issues relating to ex parte pleas; possible disqualification of Commissioners in Docket No. 11747 and in further proceedings in this matter; the effect thereof upon the validity of the proceedings in that Docket; and possible disqualification of parties from receiving any award that may ultimately result. The order will provide that all parties to the proceedings in Docket No. 11747 before the Commission and to the proceedings in Case No. 13992 before the Court shall be admitted to participate in the evidentiary hearing as parties if they so request. The order will further provide that the hearing examiner shall make findings and conclusions upon the above-described issues and shall submit his recommended decision thereon to the Commission. The order will also provide that, after exceptions to the recommended decision and oral argument thereon before the Commission en banc, the Commission will issue a decision incorporating its findings and conclusions upon such issues. In addition, the Commission will, in the light thereof, make its determination upon the following issue:

3. What further action; in the light of all of the foregoing, is warranted with respect to the above-mentioned rule-making proceedings affecting the allocation of television channels.

5. It is contemplated that the parties to the evidentiary hearing will be given an opportunity, in their briefs accompanying exceptions and in oral argument, to address themselves to the matters to be determined by the Commission in Issue 3 above. Thereafter, the Commission will submit to the Courts its decision incorporating its findings and conclusions on all of the foregoing matters, together with its determinations as to the effect thereof upon the rule-making proceeding.

6. The Commission finds that it will be in the public interest, pending completion and resolution of these proceedings, to continue existing services affected by the rule-making proceedings in Docket No. 11747, and the Court has authorized the Commission to do so.

Accordingly, and in view of the foregoing,

It is ordered, This 1st day of July 1959, That an evidentiary hearing shall be

[1] It is to be noted that, shortly after the decision in the Sangamon case, the Court of Appeals issued its decision in WORZ, Inc. v. FCC (Case No. 13996, May 21, 1959) an adjudicatory case, in which it stated that, in the procedure then being directed on remand, which was in items identical to that used in Sangamon, it was "* * * adhering generally to the type of procedures adopted in comparable cases, including WKAT and Massachusetts Bay, * * * and the more recent instance of Sangamon Valley Television Corp. v. United States and FCC." Accordingly, the hearing which is provided for below will follow generally the procedure employed in the cited WKAT and Massachusetts Bay cases, with such necessary modifications as are required by virtue of the fact that the collateral evidentiary hearing ordered herein arises out of events occurring during the course of a rulemaking proceeding allocating television channels, pursuant to Section 4 of the Administrative Procedure Act.

[2] Although the Court's remand in this regard is in terms of "while the * * * proceeding was pending", reference is made in the Court's opinion to matters in the Legislative Oversight Committee record which covered events preceding the date of the Notice of Proposed Rule Making instituting the proceedings in Docket No. 11747. It would appear, in the circumstances of this case, that the parties, if they so desire, should be permitted (under Issue 1 hereinafter designated) to develop the record with respect to the above-mentioned events in the context in which they occurred, even though they preceded the institution of the proceeding.

held before a specially appointed hearing examiner to be designated by the Commission, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the facts with respect to the nature and source of any ex parte presentations and other approaches that may have been made to any Commissioner in connection with the proceedings in Docket No. 11747.

2. To determine, in the light of the evidence adduced under Issue 1 and any other relevant factors, whether or not:

a. Any Commissioner who participated in the above-mentioned proceedings should have disqualified himself from voting in the matter;

b. The proceedings in Docket No. 11747 were void or are voidable;

c. Any factors exist, in the circumstances of the instant proceeding, that would require that any Commissioner disqualify himself from participating in the further proceedings in this matter;

d. Any party to the proceedings in Docket No. 11747 should be found to have been disqualified to receive a grant of a permit for any television channel allocated as a result of said proceedings; and whether, if not so disqualified, its conduct has been such as to reflect adversely upon it from a comparative standpoint in any licensing proceeding which may be held upon applications for the aforesaid television channels.

It is further ordered, That, all parties to the proceedings in Docket No. 11747 before the Commission and to the proceedings in Case No. 13992 before the Court shall be admitted to participate as parties if they so request, as provided below, and that any person or persons concerning whom evidence may be received in the said hearing shall be permitted to cross-examine and to submit rebuttal testimony if he or they request the opportunity to do so. Notices of appearance, in triplicate, shall be filed by parties within 30 days of the publication of this Order and, by persons concerning whom evidence is received, within five days after the receipt of such evidence.

It is further ordered, That, the Examiner shall make findings and conclusions upon the above-listed Issues 1 and 2 and that he shall submit his recommended decision thereon to the Commission, which shall be subject to exceptions filed by the parties and oral argument thereon if requested.

It is further ordered, That, after such further proceedings on the Examiner's recommended decision, including the opportunity for the parties in their briefs accompanying exceptions and in oral argument to address themselves to the matters to be determined by the Commission in Issue 3 below, the Commission will issue its Decision incorporating its findings and conclusions upon the foregoing Issues 1 and 2 and, in the light thereof, its determination upon the following issue:

3. What further action, in the light of all of the foregoing, is warranted with respect to the above-mentioned rule-making proceedings affecting the allocation of television channels.

It is further ordered, That, pending the Commission's further Order herein, Signal Hill Telecasting Corporation is authorized to continue its operations on Channel 2 at St. Louis, Mo., subject to the provisions of the Commission's rules and regulations.

Released: July 2, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5725; Filed, July 9, 1959; 8:50 a.m.]

[Docket Nos. 12654, 12935; FCC 59-655]

OLD BELT BROADCASTING CORP. (WJWS) AND PATRICK HENRY BROADCASTING CORP. (WHEE)

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Old Belt Broadcasting Corporation (WJWS), South Hill, Virginia, Docket No. 12654, File No. BP-11412, Has: 1370 kc, 1 kw, Day, Requests: 1370 kc, 5 kw, Day; Patrick Henry Broadcasting Corporation (WHEE), Martinsville, Virginia, Docket No. 12935, File No. BP-11416, Has: 1370 kc, 1 kw, Day, Requests: 1370 kc, 5 kw, Day; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 1st day of July 1959;

The Commission having under consideration the above captioned and described applications;

It appearing that, except as indicated by the issues specified below, each of the applicants is legally, technically, financially, and otherwise qualified to construct and operate its instant proposal; and

It further appearing that the proposals involve mutual interference; that the proposed operation of WJWS would result in mutual interference with existing Station WHEE; that the proposed operation of WHEE would result in mutual interference with existing Station WJWS; that interference received from the proposed operation of WJWS by the WHEE proposal may affect more than ten percent of the population within its proposed primary service area in contravention of § 3.28(c)(3) of the Commission's rules, and that WHEE by amendment received April 23, 1959, requested a waiver of § 3.28(c)(3) of the rules; and

It further appearing that, pursuant to § 1.362(c) of the Commission rules, both applicants herein, by amendments filed April 15 and April 23, 1959, respectively, expressly waived their rights under section 309(b) of the Communications Act of 1934, as amended, to be advised by letter of any deficiencies in their respective applications; and that no objections to the waiver have been filed; and

It further appearing that the public interest would be served by allowing said notice to be waived as requested by the instant applicants, see Niagara Frontier Amusement Corp., 10 Pike and Fischer RR 57, 58; and Order of the Commission, FCC 59-192, released March 11, 1959; and that no other party will be prejudiced thereby, since the applicants are the only parties entitled under section 309(b) to reply to a letter advising them of deficiencies found; and

It further appearing that by letter received May 11, 1959, Winston-Salem Broadcasting Co., Inc., licensee of Station WTOB, Winston-Salem, North Carolina, agreed to accept any resulting interference from the proposed operation of WHEE, but measurement data submitted by WHEE May 19, 1959 revealed no interference would occur; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operations of Stations WHEE and WJWS and the availability of other primary service to such areas and populations.

2. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and all other existing standard broadcast stations, the areas and populations affected thereby, and the availibility of other primary service to such areas and populations.

3. To determine whether the instant proposal of WJWS would involve objectionable interference with Station WHEE, Martinsville, Virginia, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine whether the instant proposal of WHEE would involve objectionable interference with Station WJWS, South Hill, Virginia, or any other existing standard broadcast stations, and, if so, the nature and extent therof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

5. To determine whether interference received from the proposed operation of WJWS would affect more than 10 percent of the population within the normally protected primary service area of the instant proposal of WHEE, in contravention of § 3.28(c)(3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said section.

6. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would better provide a fair, efficient and equitable distribution of radio service.

7. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the instant applications should be granted.

It is further ordered, That Old Belt Broadcasting Corporation and Patrick Henry Broadcasting Corporation, respectively, are made parties with respect to the existing operations of Stations WJWS and WHEE, respectively.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: July 7, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5726; Filed, July 9, 1959; 8:50 a.m.]

[Docket No. 12666, etc.; FCC 59-642]

PUBLIX TELEVISION CORP ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Publix Television Corporation, Perrine, Florida, Docket No. 12666, File No. BPCT-2393; South Florida Amusement Co., Inc., Perrine, Florida, Docket No. 12667, File No. BPCT-2410; Coral Television Corporation, South Miami, Florida, Docket No. 12668, File No. BPCT-2493; for construction permits for television broadcast stations.

1. There are before the Commission the petitions of Publix Television Corporation (Publix) and of South Florida Amusement Co., Inc. (South Florida), both filed December 5, 1958, seeking enlargement of the hearing issues, and various reply pleadings filed by Coral Television Corporation (Coral) and the Commission's Broadcast Bureau.

2. The requests of Publix and of South Florida to enlarge issues relate to Coral's financial and technical qualifications. Publix requested that the Commission,

a. Amend Issue 1 (the "financial qualifications" issue) so as to include Coral Television Corporation * * *."

b. Renumber Issues 3 and 4 as 4 and 5 and add the following as Issue 2: "To determine whether Coral Television Corporation is technically qualified to construct, own and operate the proposed television broadcast station."

South Florida requested addition of the following issues:

(a) To determine whether the site proposed by Coral Television Corporation is suitable for the construction of a television station which is required in its operation to serve public interest, convenience and necessity.

(b) To determine the financial qualifications of Coral Television Corporation to construct and operate its proposed television station.

3. The requested issues are based upon the contentions that (a) the Boulevard National Bank of Miami which is to provide $200,000 to Coral according to its proposal, is limited by Title 12 U.S.C., Secs. 24 and 84, to lending Coral only approximately $90,000, i.e., 10 percent of the bank's paid-in, unimpaired capital stock, and 10 percent of the bank's unimpaired surplus fund; (b) Coral's proposal to construct its transmitter building, erect the antenna tower, and install the necessary associated equipment for $30,000 is unrealistic and inaccurate and that the correct cost would be approximately $240,000; (c) various of Coral's cost estimates are low, and (d) it is questionable whether Coral's stockholders, proposed bank creditors, and proposed credit equipment supplier are aware of the business risks inherent in as hazardous an operation as that proposed by Coral, i.e., to locate its transmitter on a small coral key off the Florida coast in an area susceptible to hurricane damage. As to (a), petitioners argue the Boulevard National Bank of Miami is subject to the limitations of Title 12 U.S.C., Secs. 24 and 84; that as of June 30, 1958 the capital stock of the bank was $600,000 and its surplus was $310,000; and that the most it is legally empowered to lend to Coral is $91,000. No one questions the correctness of these figures. The completeness of Coral's showing of the terms upon which the bank loan would be available to Coral is questioned by Publix. As to (b), South Florida asserts that Coral cannot construct its transmitter building for $30,000 as proposed in Coral's application, and in support of this assertion it states that its consulting Florida architect estimates the cost of such a building at $186,350, plus an additional contingency fund equal to 30 percent of this figure. According to Publix, the cost of constructing Coral's transmitter at its remote and relatively inaccessible location will total more than $200,000. It is the contention of the petitioners that there is available to Coral only $300,000 instead of its proposed $510,000, and that its cash requirements for its first year of operation will be substantially higher than the estimated $490,000 set forth in its application. South Florida places the figure at $700,000, computed by adding to Coral's $490,000 estimate, $210,000 additional for the transmitter building.

4. With respect to the question of the Boulevard National Bank's financial commitment to it, Coral in its opposition calls attention to a letter from the bank dated April 21, 1958 which it submitted with its application and in which the bank states, "* * * it is agreed that this Bank will loan to your group or undertake to arrange financing for the corporation in a remaining amount to place the corporation in operation * * *" Coral states that in supplementary letters dated September 8 and 12, 1958, the bank stated that the principal was to be retired in 24 equal monthly payments beginning at the end of the first year, with interest at 6 percent per year. Coral attached to its opposition a copy of a letter dated December 31, 1958 from the Boulevard National Bank stating it had arranged the financing of its commitment to Coral, its portion of the loan to be $90,000, with the Mercantile National Bank of Miami Beach, Florida, participating for the balance of $210,000 on the same terms as those set forth by Boulevard in its letter submitted to the Commission.

5. While Coral's opposition, and the attachments thereto, are explanatory of the Boulevard National Bank's commitment to it, neither its application nor any amendment thereto set forth its arrangement through the Boulevard National Bank for a $210,000 credit with the Mercantile National Bank nor is the latter bank identified in the application or any amendment thereto as a source of funds. For this reason, a financial qualification issue will be added.

6. The question of the cost to Coral of its proposed transmitter building is countered by Coral by offering with its pleadings a copy of an agreement whereby a Mr. M. F. Pafford, on terms and conditions set forth in the agreement, would construct for Coral for a total cost of up to $180,000 the tower foundation and transmitter building, and lease the same to Coral for a term of 20 years. A firm estimate from a construction company to Pafford is attached to Coral's opposition as an exhibit. According to this agreement, Coral is to make an initial payment of $30,000 to Pafford; Coral will convey its rights in the Ragged Key No. 2 transmitter site to Pafford; and Pafford will then erect the necessary transmitter building on the site and lease back the improved property. Coral argues that the figures in the Pafford agreement are in substantial accord with even South Florida's and Publix's own estimates of the cost of the transmitter building on Ragged Key No. 2.

7. Coral's reliance on the Pafford lease agreement as the means by which it intends to fulfill its estimate of $30,000 as the cost of its transmitter building, Publix and South Florida contend, is an attempt to interpose a variance to its application by way of a pleading. The Commission is of the opinion that the question of a variance is not one to be resolved upon an interlocutory petition; this is a matter of an exclusionary evidentiary rule, which may be invoked by Publix and South Florida at such time as Coral offers the agreement in evidence at the hearing.

8. The contentions of the petitioners that the hazardous character of Coral's proposal requires taking evidence as to the willingness of Coral's stockholders,

bank creditors and proposed credit equipment supplier to assume the extraordinary business risks here present (see par. 3, supra), do not warrant serious consideration since they are accompanied by no substantial factual allegations. The petitioners' various assertions that Coral's cost estimates are too low relate to the sufficiency of the funds Coral has allocated to the items of its proposal. It is within the province of the Hearing Examiner in this proceeding to entertain petitions for the addition of such an "Evansville" issue.

9. The suitability of Coral's proposed transmitter is questioned by both petitioners on the ground that it is a small (100 ft. x 600 ft.) coral key off the Florida Atlantic coast and nine miles from the nearest mainland point, and that it is in an area particularly susceptible to hurricanes. It is alleged that the key is an isolated island of limited accessibility on which there are no improvements at this time; that hurricanes will cover the key with more than two feet of water, and waves driven by the wind will be approximately ten feet higher than the water level; that the approach of a hurricane would require evacuation of the site by its personnel, and consequent suspension of operation, at just a time when its operation would be most essential to the public interest, to wit, when a hurricane or other substantial storm with winds of subhurricane velocity was approaching the Miami metropolitan area.

10. Coral's opposition thereto is of a very general character. It questions the qualifications of the affiants and consultants whose opinions provide the basis of these contentions by Publix and South Florida. Coral refers at some length to the incidence of various improvements upon various other coral keys in the general vicinity of its proposed site. The only conclusion which can be drawn from this part of the oppositions is that some keys in the area are inhabited, and that some have been damaged by hurricanes in the past, though the extent of the damage is disputed. Coral states that persons connected with its application are long-time residents and businessmen in the Miami area who are fully familiar with the weather and terrain of that area; that they relied in making their proposal upon expert advice; that it is not uncommon for television stations to be located at relatively remote places which present some problems of accessibility and maintenance of personnel; and finally that there is no question of the feasibility of its site proposal.

11. The Commission's Broadcast Bureau states that the susceptibility of the area to hurricanes, established by information from the Weather Bureau, United States Coast Guard, and United States Corps of Engineers, plus the possibility that station personnel would have to be evacuated from the site upon posting of a hurricane or strong-wind warning at just the time the public interest would require continued operation, raise a serious policy question which the Commission should consider in the light of a fully developed hearing record. The Broadcast Bureau therefore endorses South Florida's proposed issue. The Commission is in accord with the Broadcast Bureau that the allegations in the petitions require that the questions raised be resolved on the basis of a full hearing record.

For the foregoing reasons: *It is ordered,* That Issue 1 is amended by deleting therefrom "Gerico Investment Company"[1] and substituting therefor "Coral Television Corporation";

It is further ordered, That Issues 2, 3, and 4 are renumbered Issues 4, 7, and 9, respectively, and the following is added as new Issue 5 (new Issues 2, 3, and 6 are being added by other Orders of the Commission of this same date):

5. To determine whether the site proposed by Coral Television Corporation is suitable for the construction of a television station which is required in its operation to serve the public interest, convenience and necessity.

It is further ordered, That to the extent reflected in this Order the petitions of Publix Television Corporation and of South Florida Amusement Co., Inc., filed December 5, 1958, seeking enlargement of the hearing issues are granted.

Adopted: July 1, 1959.

Released: July 7, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5727; Filed, July 9, 1959; 8:50 a.m.]

[Docket No. 12666, etc.; FCC 59-643]

PUBLIX TELEVISION CORP. ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Publix Television Corporation, Perrine, Florida, Docket No. 12666, File No. BPCT-2393; South Florida Amusement Co., Inc., Perrine, Florida, Docket No. 12667, File No. BPCT-2410; Coral Television Corporation, South Miami, Florida, Docket No. 12668, File No. BPCT-2493; for construction permits for television broadcast stations.

1. There are before the Commission the petitions to enlarge issues, filed December 5, 1958, by Coral Television Corporation (Coral) and South Florida Amusement Co., Inc. (South Florida), and various reply pleadings filed by Publix Television Corporation (Publix), and the Commission's Broadcast Bureau.

2. The petitions of South Florida and of Coral are addressed to the legal and financial qualifications of Publix. South Florida asks that the following issue be added: "To determine the legal and financial qualifications of Publix Television Corporation to construct and operate its proposed station."

Coral requests that the issues be expanded to include the following three additional issues:

(1) To determine what understandings and/or agreements exist between Publix Television Corporation and Irving Kipnis; the relationship between Kipnis and Publix; whether Kipnis is a principal in, or controls Publix; and, if so, whether Kipnis is legally and/or otherwise qualified to be a party to the application of Publix.

(2) To determine whether Publix Television Corporation is legally qualified to construct, own and operate its proposed television broadcast station.

(3) To determine whether Publix Television Corporation is financially qualified to construct, own and operate its proposed television broadcast station.

3. As to Publix's financial qualifications, the allegations of both South Florida and Coral revolve around the relationship of Irving Kipnis to Publix. Kipnis, according to Publix's proposal, is to provide funds not in excess of $2,000,000 toward the $2,170,000 (apart from deferred payments) which Publix states is available to it to meet its estimated cost of construction of $969,630.63, and estimated cost of operation for the first year of $730,000.00. Publix's estimated revenues for the first year of operation amount to $500,000. It is alleged that the showing required by Section III-4 of the FCC Form 301 has not been made as to Kipnis; and that the specific terms are not stated upon which he is to make available to Publix up to $2,000,000. It is alleged that Kipnis has not filed a full and complete account of his business and financial interests within the last five years. Further allegations, particularly by Coral, are that there is insufficient basis to support a finding of financial qualification favorable to Publix at this time in view of the insufficiency of detail and the total amount of net liquid assets of C. and D. Danton, N. J. Serbin, L. L. Lazar, and Kipnis shown in their financial statements. Kipnis' net worth statement attached to the application discloses approximately $208,000 of liquid assets, including cash, U.S. Government bonds, and equity in marketable securities; the balance of the assets shown are of doubtful liquidity, including nonlisted corporate stock, notes, mortgages receivable, and equities in various real estate; the terms, nature, assignability, discountability or maturity of these assets are not shown. As to the parties Serbin, Lazar and the Dantons, their financial statements show net liquid assets of only $63,104.97, which is less than 25 percent of their total commitment of $248,300.00.

4. Publix's opposition takes the position that the feasibility of its construction and operating proposals has not previously been questioned, and that no facts are now alleged which should cause reconsideration of the finding in the hearing order that Publix is financially qualified. Publix asserts that its application, together with the exhibits attached to its opposition, resolve any question as to its financial qualifications. Kipnis' commitment to Publix contained in one of the attached exhibits is in the form of a letter recital of the agreement between them. Additional data are submitted concerning the parties Serbin, Lazar and the Dantons to the effect that they will meet their financial commitments through sale of assets

[1] Gerico Investment Company has ceased to be a party to this proceeding because of its failure to amend its application as required by the Commission's Order of November 17, 1958 (FCC 58-1075).

or with funds borrowed without security, except that C. Danton will provide $60,000 of his commitment of $100,000 by transferring land of that value to the applicant corporation. This additional showing is made by means of affidavits of the parties attached to Publix's opposition.

5. Coral observes that a balance sheet of Kipnis as of September 30, 1953, submitted in connection with another application to this Commission (that of Miami Biscayne for Channel 33, Miami), stated his net worth to be $754,797.73. Coral states that the "dramatic difference" between the 1953 figure and the over $2,000,000 figure for his net worth given in the instant October 31, 1958, financial statement is due to the addition of two principal items: "Notes Receivable—Crosley Corporation ($693,537.50)" and "Mortgages Receivable ($1,150,000)". These items were not a part of the 1953 balance sheet. Coral states that Kipnis failed to list in his October 31, 1958, financial statement his $50,000 stock subscription and $200,000 loan commitment in connection with his Miami Channel 33 application.

6. On the basis of the allegations set forth in the pleadings summarized above the Commission is satisfied that an issue as to Publix's financial qualifications should be added. The financial information supplied by Publix in its application as to Kipnis and the parties named above has not been set forth so as to meet the requirement of Section III, par. 4d., FCC Form 301, that the financial information must be sufficiently detailed "to permit a determination of current position and should be more than a mere statement of total assets and total liabilities or a statement of net worth."

7. The petitioners' requests to add issues relating to Publix's legal qualifications (and other matters, in the case of Coral's request) concern the question of the status of Irving Kipnis as related to Publix in view of his agreement to provide the preponderance of all funds to be made available to that applicant, and in view of the decision of the U.S. Court of Appeals for the District of Columbia Circuit in WLOX Broadcasting Company v. F.C.C., 200 F. 2d 712, 17 RR 2120 (September 18, 1958), rehearing denied. South Florida's argument in support of its petition is that in view of Publix's proposed financial arrangements and its utter dependence upon Kipnis for its survival, a question is presented as to Kipnis' status as a principal as well as to the control Kipnis would have over Publix. The letter recital of the agreement between Kipnis and Publix is alleged to be insufficient to resolve questions respecting the terms and conditions of contemplated mortgages, and the assets which those mortgages would include. It is also urged that Publix's proposed non-network operation in a four-station market could not be expected to do well enough financially to retire such loans as Kipnis would make to Publix, within the three-year maximum period permitted for such payment.

8. Coral's argument includes additionally the contention that Publix's application fails to state the position Kipnis would have with Publix, the commitments Publix has made to him, and what policy powers he will have over the applicant, especially in view of the possibility that his ultimate investment may completely dwarf that of the parties to the application. Coral argues that the WLOX case requires that Kipnis be considered a principal of Publix for comparative purposes, and that decisions of the Commission, especially Western Gateway B/Casting Corp., 6 RR 1325 (1951), and ABC-Paramount Merger Case, 8 RR 541, 617 (1953), support the request to add an issue as to Kipnis' control over the applicant, since actual power to control rests where even unexercised power to control occurs, and that in the instant situation it is unrealistic to suppose that Kipnis will not at the very least be in a position to wield substantial power, influence, and perhaps dominance over Publix. Coral contends that the Western Gateway and ABC-Paramount decisions discuss and define "control", "actual control", and "controlling influences" of minority stockholders over their corporations.

9. Publix replies that all information necessary to establish its legal qualifications was submitted in its application, that all information required as to Irving Kipnis has also been submitted, and that there is no basis for questioning its legal qualifications. In view of the definition of "party to this application" given at the beginning of Part II of the FCC Form 301, to wit: "* * * the words 'party to this application' have the following meanings, respectively: * * * In the case of a corporate applicant, all officers, directors, stockholders of record, persons owning the beneficial interest in any stock, subscribers to any stock, and persons who voted any of the voting stock at the last stockholders meeting." Publix argues the only "parties" to its application are its stockholders and officers C. Danton, Lazar, Serbin, Spire, and D. Danton; that Kipnis is not a party and will exercise no control over the proposed station; and that this information is given in its application as amended on March 19, 1958. Publix points out that the Commission raised no question as to Publix's legal qualifications in its 309(b) letter, dated August 11, 1958. In conclusion, Publix takes the position that the question whether Kipnis is a principal for the purpose of weighing the applicant's comparative qualifications is unrelated to its legal qualifications.

10. The Commission is in agreement with the position of the Broadcast Bureau that the full facts concerning Kipnis' relationship to Publix should be developed in the record. The failure of the 309(b) letter to raise questions of Publix's legal qualifications, and of Kipnis' relationship to Publix in itself is of no significance. WLOX Broadcasting Company v. FCC, supra.

11. The letter recital of the agreement between Kipnis and Publix according to which he is to provide by far the major portion of all funds required by Publix does not contain the requisite detail as to terms of repayment and security. The agreement merely states that the security for Kipnis' loans shall be either debenture bonds of promissory notes or some other instrument evidencing the debt, and that in addition or in the alternative, at Kipnis' election, Publix shall execute and deliver mortgages on its physical properties and equipment; any promissory notes of Publix are to be personally endorsed or guaranteed by Publix's stockholders at the time of the loan. The agreement states that details not referred to will be taken care of at the time of any advancement of funds. The maturity date of any obligations acquired pursuant to this agreement is to be not less than one year nor more than three years from the advancement. Thus, in view of Kipnis' very extensive financial support of Publix, the possibilities of his either directing Publix operation or gaining legal control of the station, and the lack of clarity and detail in the showing of Kipnis' agreement with Publix, it is the opinion of the Commission that a sufficient showing has been made of the Kipnis-Publix relationship to warrant inquiry into the legal control of Publix by Kipnis; the legal qualifications issue as to Publix as well as an issue with respect to Kipnis' relationship to Publix will thus be added.

For the foregoing reasons: *It is ordered,* That the following is added as new Issue 2 (other Orders of the Commission of the same date renumber present Issues 2, 3, and 4 Issues 4, 7 and 9 respectively, and add new Issues 3 and 5):

2. To determine whether Publix Television Corporation is financially qualified to construct, own, and operate its proposed television broadcast station.

and that the following is added as new Issue 6:

6. To determine what understandings and/or agreements exist between Publix Television Corporation and Irving Kipnis; the relationship between Kipnis and Publix; whether Kipnis is a principal in, or controls Publix; and, if so, whether Kipnis is legally and/or otherwise qualified to be a party to the application of Publix Television Corporation and in the event Kipnis is found to be a party, whether Publix Television Corporation is legally qualified.

It is further ordered, That to the extent reflected in this Order, the petitions of Coral Television Corporation and South Florida Amusement Co., Inc., filed on December 5, 1958, both for enlargement of the hearing issues, are granted and in all other respects denied.

Adopted: July 1, 1959.

Released: July 7, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5728; Filed, July 9, 1959; 8:50 a.m.]

[Docket No. 12666 etc.; FCC 59-645]

PUBLIX TELEVISION CORP. ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Publix Television Corporation, Perrine, Florida, Docket No. 12666, File No. BPCT-2393; South Flor-

ida Amusement Co., Inc., Perrine, Florida, Docket No. 12667, File No. BPCT-2410; Coral Television Corporation, South Miami, Florida, Docket No. 12668, File No. BPCT-2493; for construction permits for television broadcast stations.

1. There are before the Commission the petition of Coral Television Corporation (Coral) for revision of the hearing issues, filed December 5, 1958, and various reply pleadings filed by South Florida Amusement Co., Inc. (South Florida), Publix Television Corporation (Publix), and the Commission's Broadcast Bureau.

2. Coral's petition to add a financial issue as to South Florida requests that the Commission reconsider its finding in the hearing Order, released November 17, 1958, that South Florida is financially qualified, and adopt an issue as follows: "To determine whether South Florida Amusement Co., Inc. is financially qualified to construct, own and operate its proposed television broadcast station."

The basis of the petition is that Bernard Berkley, a 38.5-percent stock subscriber of South Florida, has not made a sufficient showing of current and liquid assets to meet his commitment of $231,000.00 toward the total of $408,250.00 which South Florida proposes will be raised from five persons (including Berkley) to cover its total estimated initial costs of construction of $404,295.00. Berkley's financial statement, submitted as an exhibit to South Florida's application, lists total assets and net worth in the amount of $1,210,000.00, including $40,000.00 in cash, and the balance in various real estate holdings. Coral contends that except for cash, these assets cannot be considered "current and liquid", absent a specific showing that they will provide funds to meet the proposed commitment, and that no such showing is made. Since South Florida's proposal depends principally upon Berkley's commitment, it is argued a finding of financial qualification cannot be based upon the information submitted.

3. South Florida's opposition states that Berkley's statement shows as net worth an amount five times as large as his commitment to South Florida, and that in the absence of contradicting material to this strong showing, the previous judgment of the Commission must be accepted. Berkley additionally submitted with South Florida's opposition his affidavit stating, among other things, his intention to pledge or sell whatever assets are necessary to meet his commitment, and letters of commitment from First National Bank of Hollywood, Florida, and The North Shore Bank, Miami Beach, Florida, dated January 5 and 6, 1959, respectively, reciting the banks' approvals of total credits in the amount of $231,000.00 available to Berkley up to April 1, 1959, which date the banks would consider extending.

4. Publix states in its filed comments that in view of the supplemental information supplied by South Florida in its opposition, Coral's showing is insufficient to compel addition of the requested issue.

5. The Commission's Broadcast Bureau takes substantially this same position, adding that it believes the bank letter representations can be relied upon although South Florida's application has not been amended to reflect their substance.

6. Coral, in its reply pleading, states that the necessity for a determination of South Florida's financial qualifications based upon a hearing record is not removed by the supplemental information submitted in the opposition pleading. Coral alleges that Berkley's affidavit statement respecting his assets falls far short of the description of assets required by Section III, par. 4 of application Form 301, in that simple reference to the amount of his net worth is specifically not a sufficient showing. Coral contends that the bank letter commitments are insufficient to establish availability of funds since they are both contingent upon any loans being properly secured, and neither letter shows the terms of payment, if any, or security, if any, as is required by the above section of the application form. Coral alleges that there is now no more substantial evidence to support a finding of financial qualification than there was before the pleadings pursuant to this petition, and that such evidence as there is will not support the necessary basic findings in this regard.

7. The factual allegations contained in the instant pleadings provide some support for the view that South Florida is financially qualified. However, they do not sufficiently demonstrate such financial qualifications, and under these circumstances, the Commission is of the view that Coral's petition should be granted in order to permit development of further evidence as to South Florida's financial qualifications, as for example, evidence as to the terms of the bank loan and as to whether the security required by the bank will be available and satisfactory to the bank.

For the foregoing reasons: *It is ordered,* That the petition of Coral Television Corporation for revision of the hearing issues, filed December 5, 1958, is granted, and the following new Issue 3 is added to the hearing issues (other Orders of the Commission of the same date renumber present Issues 2, 3, and 4 Issues 4, 7, and 9 respectively, and add new Issues 2, 5, and 6):

3. To determine whether South Florida Amusement Co., Inc., is financially qualified to construct, own, and operate its proposed television broadcast station.

Adopted: July 1, 1959.

Released: July 7, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5729; Filed, July 9, 1959; 8:50 a.m.]

[Docket No. 12666, etc.; FCC 59-646]

PUBLIX TELEVISION CORP. ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Publix Television Corporation, Perrine, Florida, Docket No. 12666, File No. BPCT-2393; South Florida Amusement Co., Inc., Perrine, Florida, Docket No. 12667, File No. BPCT-2410; Coral Television Corporation, South Miami, Florida, Docket No. 12668, File No. BPCT-2493; for construction permits for television broadcast stations.

1. There are before the Commission Coral Television Corporation's (Coral) petition to clarify or enlarge issues, filed April 16, 1959, and various reply pleadings filed by South Florida Amusement Co., Inc. (South Florida), Publix Television Corporation (Publix), and the Commission's Broadcast Bureau.

2. Coral's petition for clarification of the present standard comparative issue to permit introduction of evidence of comparative coverage, or, in the alternative, for enlargement of issues to permit such a showing, was filed on April 16, 1959. The hearing Order in this proceeding was released on November 17, 1958, and was published in the FEDERAL REGISTER on November 20, 1958, 23 F.R. 9042. Under § 1.141 of the Commission's Rules, 47 CFR 1.141, motions to enlarge or change the issues must be filed not later than 15 days after the issues have first been published in the FEDERAL REGISTER, unless good cause is shown for the delay in filing. The delay in the instant situation is over four months since December 5, 1958, the last date for filing petitions of this kind without the necessity for an accompanying showing of good cause.

3. Coral presents in this connection first the contention that the matters with which the petition is concerned are fully covered by the currently effective hearing issues specified in the Order released November 17, 1958. This argument corresponds with Coral's first alternative request for clarification of the present standard comparative issue, and especially of the programming portion thereof. It is Coral's contention that decisions like Hall v. Federal Communications Commission, 99 US App. D.C. 86, 237 F. 2d 567 (1956) have established that the Commission must consider proposed coverage and any other factor that reasonably bears upon a comparative evaluation of competing applicants and their proposals in a television proceeding; that an effective and realistic showing of proposed programming must include a showing of the persons who are to receive the service; that the currently specified Issue 3(c) relating to comparative programming should be "clarified" to permit introduction of comparative coverage evidence; and that evidence which is so significant from a public interest viewpoint should not be excluded because of the absence of "magic words" of such a precise issue.

4. The Commission's Broadcast Bureau opposes the request for clarification. It contends that the Commission has never permitted a showing of comparative coverage (engineering) in connection with proposed program service under the standard comparative issue, and that in Mid-Western Broadcasting Co., 13 RR 613 and Great Lakes Television, Inc., 16 RR 201, upon which Coral relies, special issues were designated to allow the introduction of evidence as to comparative

coverage. The Bureau states that the absence of language in the present hearing issues respecting comparative coverage precludes the adduction of such evidence. The Bureau argues that none of the decisions upon which Coral relies abrogates the Commission's authority to regulate the course and scope of its hearing proceedings. The Bureau concludes that Coral's argument that a special issue is not necessary is an attempt to circumvent the requirement of good cause for the delay in filing the instant petition.

5. Publix's opposition to the petition is largely in accord with the Commission's Broadcast Bureau upon the point under consideration. Publix states that Coral's argument that the present issues are capable of the interpretation Coral requests regardless of the absence of "magic words" of a precise issue on the subject of comparative coverage finds no support in logic, Commission precedent, or the decisions cited by Coral.

6. It was never contemplated nor previously understood that comparative coverage evidence is within the scope of the standard comparative issue. None of the authorities cited by Coral persuades the Commission to the contrary. Thus, the issue comprehending such evidence was added in Mid-Western before, and in Great Lakes after, the Hall v. FCC decision. The Broadcast Bureau and Publix appear correctly to have characterized Coral's attempt to have the present issues "clarified" as an attempt to circumvent the Rules requirement of good cause for delay in filing the instant petition. Coral's request for clarification will be denied.

7. In support of its view that good cause exists for the late filing of its petition, Coral contends that no surprise can be claimed by any of the parties since it was obvious to all parties since March 16, 1959, when proposed exhibits were exchanged by all parties, that Coral intended to introduce such evidence. Coral states that its proposed comparative coverage evidence is of such possible significance from a public interest standpoint that its consideration must not be refused. Publix, South Florida and the Commission's Broadcast Bureau oppositions thereto rest upon the grounds that Coral's counsel are experienced and are aware that the standard comparative issue in a television proceeding does not include matters of engineering, and that no good cause at all is shown for the instant inordinately late petition apart from such substantive merit as it possesses.

8. The Commission finds that good cause is not shown for the very considerable delay in filing the instant petition. The authoritative basis of Coral's petition, viz, the Hall, Mid-Western, and Great Lakes decisions, consists wholly of Commission and Court actions taken in 1956 and 1957; the hearing Order in this proceeding was released November 17, 1958. Coral does not rely as justification for its delay in filing upon a change in the context of applicable law since issuance of the instant hearing Order. In brief, Coral relies upon nothing beyond such substantive merit as its petition possesses. Since this does not in itself amount to any cause at all for the delay in filing, the Commission will deny Coral's petition to enlarge the hearing issues.

9. On its own motion, and in consideration of the matters of record relevant to this matter, especially the prepared exhibit of Coral which purports to show that based upon theoretical coverage curves prepared in accordance with §§ 3.683 and 3.684 of the rules, 47 CFR 3.683 and 3.684, the populations within Coral's contours are approximately three times as large as those within the other applicants' contours, and the fact that since the Hall decision the Commission has permitted the introduction of evidence relative to coverage regardless of whether a preliminary showing had been made that the evidence was of more than tenuous validity, the Commission will enlarge the issues by adding the issue set forth below. It is the Commission's view that the issue adopted herein will best serve the public interest in that the relative needs of the respective coverage areas cannot properly be determined without a showing as to what other stations serve the areas concerned. One applicant's greater coverage may be mitigated by factors having to do with the availability of other services from other stations over the same areas.

For the foregoing reasons: *It is ordered,* That Coral Television Corporation's petition to clarify or enlarge issues, filed April 16, 1959, is denied: *And it is further ordered,* That, on the Commission's own motion, the issues in this proceeding (other Orders of the Commission of the same date renumber present Issues 2, 3, and 4 Issues 4, 7, and 9 respectively, and add new Issues 2, 3, 5, and 6) will be enlarged by adding the following Issue:

8. (a) To determine the location of the proposed Grade A and B contours of the applicants in this proceeding.

(b) To determine, on a comparative basis, the areas and populations within the respective Grade A and Grade B contours which may reasonably be expected to receive actual service from the applicants' proposed stations.

(c) In the event the proof under (a) and (b) above shall establish that any or all of the applicants will bring actual service to areas and populations not served by its competitors, to determine the number of services, if any, presently available to such areas and populations.

Adopted: July 1, 1959.

Released: July 7, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5730; Filed, July 9, 1959; 8:51 a.m.]

[Docket No. 12690; FCC 59M-865]

LOS BANOS BROADCASTING CO.

Order Continuing Hearing

In re application of James H. Rose tr/as Los Banos Broadcasting Company, Los Banos, California, Docket No. 12690, File No. BP-11874; for construction permit.

The Hearing Examiner having under consideration the petition for a 60 day continuance of procedural dates or in the alternative continuance sine die filed in the above-entitled proceeding on June 25, 1959, by Los Banos Broadcasting Company;

It appearing that by order released June 11, 1959, it was specified that applicant was to provide the other parties copies of his affirmative case exhibits on June 25, 1959, and hearing was scheduled for July 8, 1959;

It further appearing that in the course of preparation of certain engineering exhibits check measurements of the signal intensity of Station KCRA on pertinent radials were made which indicate a significant increase in field strength over the values determined on the basis of earlier measurements utilized in the preparation of applicant's case and continuance is requested to permit recalibration of the field intensity meter utilized and the making of additional measurements to resolve this conflict;

It further appearing that no opposition to the said petition has been filed and the foregoing circumstances constitute good cause for a grant thereof;

It is ordered, This 2d day of July 1959 that the said petition is granted in the alternative and the time for providing other parties with the affirmative case exhibits of applicant and for the hearing herein are continued without date;

It is further ordered, That 30 days after release of this order the applicant shall report to the Hearing Examiner the progress made in development of his case and 30 days thereafter whether his application is to be further prosecuted.

Released: July 6, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5731; Filed, July 9, 1959; 8:51 a.m.]

[Docket No. 12844 etc., FCC 59M-862]

RICHARD L. DeHART ET AL.

Order Following Further Prehearing Conference

In re applications of Richard L. DeHart, Mountlake Terrace, Wash., Docket No. 12844, File No. BP-11312; KVOS, INC. (KVOS), Bellingham, Wash., Docket No. 12845, File No. BP-11360; John W. Davis (KPDQ), Portland, Oreg., Docket No. 12847, File No. BP-11436; for construction permits for standard broadcast stations.

A further prehearing conference in the above-entitled proceeding having been held on July 1, 1959, and it appearing that certain agreements were reached therein which should properly be formalized in an Order:

It is ordered, This 2d day of July, 1959, that:

(1) The affirmative case of applicant John W. Davis (KPDQ) will be presented by written, sworn exhibits; and

(2) Applicant John W. Davis (KPDQ) will supply his exhibits in final form to the other parties herein (except applicant DeHart) on July 13, 1959;

It is further ordered, That the hearing in this matter heretofore scheduled to commence on July 7, 1959, is continued to Monday, July 27, 1959, at 10:00 a.m., in the offices of the Commission, Washington, D.C.

Released: July 6, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5732; Filed, July 9, 1959; 8:51 a.m.]

[Docket No. 12878; FCC 59M-864]

PINE TREE TELECASTING CORP. (WPTT)

Order Continuing Hearing

In re application of Pine Tree Telecasting Corporation (WPTT), Augusta, Maine, Docket No. 12878, File No. BMPCT-4662; for modification of construction permit.

Pursuant to agreements reached at the prehearing conferences held on June 24 and July 2, 1959, the evidentiary hearing now scheduled to begin on July 27, 1959, is continued to a date to be announced following the further prehearing conference to be held on October 30, 1959.

It is so ordered, This the 2d day of July 1959.

Released: July 6, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5733; Filed, July 9, 1959; 8:51 a.m.]

[Docket Nos. 12919, 12920; FCC 59M-867]

ROBERT L. LIPPERT AND MID-AMERICA BROADCASTERS, INC. (KOBY)

Notice of Prehearing Conference

In re applications of Robert L. Lippert, Fresno, California, Docket No. 12919, File No. BP-10345; Mid-America Broadcasters, Inc. (KOBY), San Francisco, California, Docket No. 12920, File No. BP-12744; for construction permits for standard broadcast stations.

A prehearing conference will be held Tuesday, July 21, 1959, at 10 a.m., in the offices of the Commission, Washington, D.C.

Dated: July 6, 1959.

Released: July 6, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5734; Filed, July 9, 1959; 8:51 a.m.]

[Docket No. 12934; FCC 59-653]

CLEARWATER BROADCASTING CORP. (WDCL)

Order Designating Application for Hearing on Stated Issues

In re application of Clearwater Broadcasting Corporation (WDCL), Tarpon Springs, Florida, Docket No. 12934, File No. BML-1746, Has: 1470 kc, 5 kw, Day, Tarpon Springs, Florida, Req: 1470 kc, 5 kw, Day, Tarpon Springs-Clearwater, Florida; for modification of license.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 1st day of July 1959;

The Commission having under consideration the above-captioned and described application; and

It appearing that, except as indicated by the issues specified below, the instant applicant is legally, financially, technically and otherwise qualified to operate the proposed station; but that on the basis of the ground conductivity shown by Figure M-3 of the Commission Rules the 25 mv/m contour would not encompass the principal business area of the city of Clearwater in accordance with the requirements of § 3.188(b)(1) of the Commission rules; and

It further appearing that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the applicant was advised by letter dated January 16, 1959 of the aforementioned deficiency and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that by letters dated December 19, 1958 and April 23, 1959, the applicant requested a waiver of § 3.188(b)(1) of the Commission rules, stating that the business area of Clearwater consists almost exclusively of retail stores which are spread throughout the city, and that there is, therefore, no principal or concentrated business or industrial area within the meaning of the rule; that the proposed 25 mv/m contour falls short of encompassing the principal business area (on the basis of conductivities indicated by Figure M-3 of the Commission Rules) but that to provide a 25 mv/m contour over the Clearwater business district would require the installation of a directional antenna system at a cost of approximately $20,000, which would be virtually prohibitive at the present time; that the instant proposal would increase the acceptance of the station by the merchants and residents of Clearwater and assist the station materially in a difficult financial situation without in any way detracting from the service provided by the station to Tarpon Springs; but that, on the basis of the information before it, the Commission is unable to determine at this time whether circumstances exist which would warrant a grant of a waiver of said section; and

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine whether the proposed 25 mv/m contour would encompass the principal business area of the city of Clearwater in accordance with the requirement of § 3.188(b)(1) of the Commission rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

2. To determine whether, in light of the evidence adduced pursuant to the foregoing issue, a grant of the instant application would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in the order.

Released: July 7, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5735; Filed, July 9, 1959; 8:51 a.m.]

CIVIL SERVICE COMMISSION

SKILLS CRITICAL TO NATIONAL SECURITY EFFORT

Notice of Positions for Which There Is Determined To Be a Manpower Shortage

Under the provisions of Public Law 85-749, the Civil Service Commission has determined that there is a manpower shortage in skills critical to the national security effort for Military Installations Planners, GS-020, at San Bruno, California.

For these positions, in the area stated, agencies may pay travel and transportation costs of new appointees in accordance with the travel regulations issued by the Bureau of the Budget.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-5696; Filed, July 9, 1959; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Project No. 2240]

JOHNSON RANCHO COUNTY WATER DISTRICT, YUBA RIVER PROJECT

Notice of Land Withdrawal; California

JULY 6, 1959.

In the matter of Johnson Rancho County Water District, Yuba River Project, California; Project No. 2240.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in power project No.

2240 for which complete application for preliminary permit was filed December 26, 1957, by L. Cedric Macabee, now Johnson Rancho County Water District. Under said section 24 all lands of the United States lying within the boundaries of the project as delimited on map exhibits filed in support thereof are from said date of filing reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Commission or Congress.

MOUNT DIABLO MERIDIAN

T. 16 N., R. 6 E.,
Sec. 2: Lots 1, 2, 5, 6, 7, 8, 9, 10;
Sec. 14: Lots 4, 6, SE¼SE¼.
T. 17 N., R. 7 E.,
Sec. 10: N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 31: SE¼SW¼, S½SE¼;
Sec. 32: NE¼SW¼, S½SW¼.
T. 18 N., R. 7 E.,
Sec. 1: Lots 1, 2;
Sec. 2: Lot 1, SE¼NW¼, NE¼SE¼;
Sec. 12: Lots 1, 2, 3, 4;
Sec. 13: Lot 3;
Sec. 14: NE¼, E½SE¼;
Sec. 24: Lot 4, SW¼NE¼, E½E½NW¼, W½W½NW¼, W½NW¼SW¼, W½SE¼SW¼, W½SE¼;
Sec. 26: NE¼SE¼, S½SE¼;
Sec. 34: SE¼SE¼.
T. 19 N., R. 7 E.,
Sec. 13: NW¼SE¼;
Sec. 24: SE¼SW¼;
Sec. 25: NW¼SW¼;
Sec. 26: E½SW¼, N½SE¼, SW¼SE¼;
Sec. 35: NW¼NE¼, S½NE¼, SE¼;
Sec. 36: S½SW¼.
T. 18 N., R. 8 E.,
Sec. 4: Lot 5, SW¼SW¼, SE¼;
Sec. 6: S½ Lot 4, Lots 5, 6, S½NE¼SE¼ NW¼, W½E½SW¼, E½W½SE¼, E½SE¼;
Sec. 7: Lots 1, 2, 3, 4, E½W½, E½;
Sec. 8: Lot 1, SE¼NE¼, SW¼SW¼, NW¼SE¼;
Sec. 9: Lots 1, 2, 3, 4, NW¼NE¼;
Sec. 17: SE¼NE¼, N½NW¼, SW¼NW¼, N½SW¼, NW¼SE¼;
Sec. 18: Lots 1, 2, 3, 4, E½W½, NE¼, N½SE¼, SW¼SE¼;
Sec. 20: SE¼SE¼, W½SE¼;
Sec. 22: W½NE¼SW¼NE¼, NW¼SW¼NE¼, N½SW¼SW¼NE¼, SW¼SW¼SW¼NE¼, SW¼NW¼, N½SW¼, SW¼SW¼;
Sec. 26: NW¼NE¼, S½NE¼, SW¼NW¼, W½SW¼, SE¼SW¼, SE¼;
Sec. 27: N½SW¼SE¼;
Sec. 28: All;
Sec. 29: NE¼NW¼;
Sec. 32: E½NE¼.
T. 19 N., R. 8 E.,
Sec. 3: SE¼SW¼;
Sec. 7: Lot 4, S½SE¼;
Sec. 8: SE¼NE¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 9: S½N½, S½;
Sec. 10: W½;
Sec. 11: NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 13: SE¼NE¼, S½NW¼, N½S½, S½SE¼;
Sec. 14: N½, NE¼SE¼;
Sec. 15: N½;
Sec. 16: NW¼NE¼, SE¼NE¼, N½NW¼;
Sec. 18: Lots 1, 2, 3, 4;
Sec. 24: E½NW¼.
T. 18 N., R. 9 E.,
Sec. 30: Lots 3, 4, 5, 11, 12, S½ Lot 14, S½NE¼.
T. 19 N., R. 9 E.,
Sec. 1: S½;
Sec. 7: S½SE¼;
Sec. 8: S½;
Sec. 10: E½SW¼, SE¼.
Sec. 11: Lot 1, NE¼, N½SW¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 12: N½NW¼, SW¼NW¼;
Sec. 15: W½NE¼, W½;
Sec. 16: NE¼, E½NW¼, S½;
Sec. 17: N½N½, SW¼NW¼, NW¼SW¼, E½SE¼, SW¼SE¼;
Sec. 18: Lots 4, 5, S½ Lot 6, Lot 7, N½ Lot 8, NE¼, N½SE¼;
Sec. 19: Lots 1, 2, 3, N½ Lot 6.
T. 19 N., R. 10 E.,
Sec. 4: SW¼NW¼;
Sec. 5: SW¼NE¼, S½SE¼NE¼, S½NW¼, W½NW¼SW¼, W½E½NW¼SW¼, SW¼SW¼, NW¼SE¼, N½NE¼SE¼;
Sec. 6: Lots 5, 6, 7, SE¼NW¼, E½SW¼, SE¼.

The area reserved by the filing of this application is approximately 13,381.04 acres of which approximately 12,942.83 acres are within the Tahoe or Plumas National Forests. Also approximately 12,101.04 acres have been heretofore reserved for power purposes in connection with, either, projects Nos. 137, 631, 1291, 1403, 2238, 2246, Power Site Reserves Nos. 88, 710 or Power Site Classifications Nos. 183 or 425.

A copy of project (Revised) map Exhibit "H–1" (F.P.C. No. 2240–2) is being transmitted to Bureau of Land Management, Geological Survey, and Forest Service.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–5698; Filed, July 9, 1959; 8:45 a.m.]

[Project No. 2005]

OAKDALE AND SOUTH SAN JOAQUIN IRRIGATION DISTRICTS, CALIFORNIA

Land Withdrawal Modification

JULY 6, 1995.

Notice of land withdrawal appearing in the FEDERAL REGISTER (24 F.R. 5037) issued Saturday, June 20, 1959, should read Mount Diablo Meridian, California, instead of Willamette Meridian, Oregon.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–5699; Filed, July 9, 1959; 8:45 a.m.]

[Docket No. G–17059]

HONOLULU OIL CORP. ET AL.

Order Amending Order for Hearing and Suspending Proposed Change in Rates and Making Effective Proposed Rates Upon Filing of Undertakings To Assure Refund of Excess Charges

JUNE 30, 1959.

In the matters of Honolulu Oil Corporation (Operator) et al. (etc.), Docket No. G–17059.

The above-designated Respondents each have an interest in the Prentice Plant in Yoakum County, Texas, from which residue natural gas is sold to Permian Basin Pipeline Company.[1] Each Respondent negotiated a separate contract wtih the purchaser regarding the sale of its share of the residue gas and filed the contract with the Commission as an FPC Gas Rate Schedule. On October 28, 1958, Honolulu Oil Corporation (Operator), et al. (Honolulu), tendered for filing a proposed changed in its FPC Gas Rate Scehdule No. 3 for its sales in question. The filing was designated Supplement No. 1 to that rate schedule and was suspended by order of the Commission issued November 26, 1958, until May 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

It now appears from the filing and from letters of Honolulu, dated April 23 and April 24, 1959, that Honolulu also had tendered the proposed change in rate as agent on behalf of each Respondent other than itself; and all those Respondents had expected the proposal to be considered a proposed change in rate in each of their rate schedules for the sales in question. The suspension order did not reflect the tender of any of the proposed changes except the one under Honolulu's rate schedule. The suspension order should be amended to reflect the tender and the suspension of each and all of the proposed changes, which are designated Supplement No. 1 to each of the following rate schedules:

Respondent	FPC Gas Rate Schedule No.
Deane E. Ackers	1
Argo Oil Corp	35
Mrs. R. G. Beach	1
Albert Bradley	1
P. F. Brown	1
John J. Burns	1
Cabot Carbon Co	26
John T. Cahill	1
R. W. Carter	1
A. W. Cherry	2
John J. Christmann	1
J. L. Cruce, Jr	1
J. A. Daugherty	1
Ethel Jo Davis	1
K. W. Davis	1
K. W. Davis, Jr	1
J. Walter Duncan, Jr	1
Raymond T. Duncan	1
Vincent J. Duncan	1
Walter Duncan	3
David M. Evans	1
Leland Fikes	6
John M. Franklin	1
George Royalty Co., et al	1
Joseph Peter Grace	1
Great Western Drilling Co	2
Patricia Ruth Carter Hart	1
Frank A. Howard	1
J. D. Hunter, Trustee Acct. No. 2	1
J. D. Hunter, Trustee Acct. No. 3	2
Ladenburg, Thalmann & Co	1
Thomas S. Lamont	1
George P. Livermore	1
G. Hilmer Lundbeck, Jr	1
Midwest Oil Corp	10
George A. Moberly	1
Joseph I. O'Neill, Jr	14
Clifford E. Payne	1
Placid Oil Co	13
Celestine V. Powell Trust	1
Deloss E. Powell	1
F. Purnell Powell	1
Mortimer Powell	1
Len Powell	1

[1] Sales by other plant interests, not involved in the proceeding in Docket No. G–17059, are governed by Shell Oil Company's FPC Gas Rate Schedule No. 151, Sinclair Oil & Gas Company's FPC Gas Rate Schedule No. 136, and Tennessee Gas Transmission Company's Rate Schedule F–18.

Respondent	FPC Gas Rate Schedule No.
Prentice Development Corp	1
H. W. Regester	1
Warren Scarborough	1
Edward L. Shea	1
Mrs. Aurelia Spence	1
D. H. Thornbury	1
R. C. Tucker	1
J. M. Welborn	1

On April 29, 1959, Honolulu filed a motion requesting that the suspended increased rate proposals become effective as of May 1, 1959.[2]

This proceeding, which was instituted pursuant to Sections 4 and 15 of the Natural Gas Act for the purpose of determining the lawfulness of the increased rates and charges proposed by Respondents, has not been concluded, nor has a decision been rendered herein.

Section 4(e) of the Natural Gas Act provides, in pertinent part:

If the proceeding has not been concluded and an order made at the expiration of the suspension period, on motion of the natural-gas company making the filing, the proposed change of rate, charge, classification, or service shall go into effect. Where increased rates or charges are thus made effective, the Commission may, by order, require the natural-gas company to furnish a bond, to be approved by the Commission, to refund any amounts ordered by the Commission, to keep accurate accounts in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision, to order such natural-gas company to refund, with interest, the portion of such increased rates or charges by its decision found not justified.

The Commission finds:

(1) The order of the Commission issued November 26, 1958, in Docket No. G–17059, should be amended throughout to order the suspension of Supplement No. 1 to each of the above-designated rate schedules.

(2) It is appropriate and necessary in carrying out the provisions of the Natural Gas Act to require each of the aforementioned Respondents to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) The order of the Commission issued November 26, 1958, in Docket No. G–17059 is amended throughout to reflect the tender and suspension of Supplement No. 1 to each of the above-designated rate schedules.

(B) Upon the execution by each of the aforementioned Respondents of its respective agreement and undertaking described in paragraph (D) below and acceptance thereof, evidenced by a letter addressed to the complying Respondent by the Secretary of the Commission, the rates, charges and classifications proposed by said Respondent in its filing as set forth above shall be effective May 1, 1959, subject to further orders of the Commission in the respective proceedings.

(C) Each Respondent shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rates found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Respondent until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates or charges allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid, and shall report (original and one (1) copy), in writing and under oath, to the Commission monthly, or quarterly if Respondent so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under its rates in effect immediately prior to the date upon which its increased rates allowed by this order become effective, and under its rates allowed by this order to become effective, together with the differences in the revenues so computed.

(D) As a condition of this order, within 15 days from the date of issuance hereof, each Respondent shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (C) hereof, signed by Respondent, or, if Respondent is a corporation, signed by a responsible officer thereof and evidenced by proper authority from the board of directors, as follows:

Agreement and Undertaking of (Name of Respondent) To Comply With the Terms and Conditions of Paragraph (C) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued (date) in Docket No. ------, (name of respondent) hereby agrees and undertakes to comply with the terms and conditions of paragraph (C) of said order, (and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto [1]) this ------ day of ----------.

By ----------

Attest:

----

[1] If a corporation.

As a further condition of this order, each Respondent shall file with its agreement and undertaking a certificate showing service of copies thereof upon all purchasers under its rate schedules involved.

(E) If each Respondent shall, in conformity with the terms and conditions of paragraph (C) of this order, make the refunds as may be required by order of the Commission, its undertaking shall be discharged; otherwise, it shall remain in full force and effect.

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–5700; Filed, July 9, 1959; 8:46 a.m.]

[2] On May 25, 1959, Cabot Carbon Company also filed a motion, on its own behalf, requesting that its suspended increased rate proposal become effective.

[Docket No. G–18851]

GEORGE T. ABELL ET AL.

Order for Hearing and Suspending Proposed Change in Rate

JUNE 30, 1959.

In the matter of George T. Abell et al. (Operators), Docket No. G–18851.

George T. Abell et al. (Operators) (Abell) on June 3, 1959, tendered for filing a proposed change in his presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increase in rate and charge, is contained in the following designated filing:

Description: Notice of change, dated December 1, 1958.
Purchaser: Permian Basin Pipe Line Co.
Rate schedule designation: Supplement No. 2 to Abell's FPC Gas Rate Schedule No. 2.
Effective date: July 4, 1959 (stated effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic rate increase, Abell states that the contractual periodic pricing clause is in the public interest in that it permits the long term commitment of gas reserves at a lower initial price during the time the pipeline unamortized capital investment is highest and that the rate here proposed is "moderate and conservative" and below that currently being charged in the area. Abell also submitted cost of service studies for the calender year 1958 and allocation thereof on both the Btu and the vapor volume methods.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 2 to Abell's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Abell's FPC Gas Rate Schedule No. 2.

(B) Pending such hearing and decision thereon, said supplement hereby is suspended and the use thereof deferred until December 4, 1959, and until such further time thereafter as it may be made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission (Commissioner Kline dissenting).

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5701; Filed, July 9, 1959; 8:46 a.m.]

[Docket No. G-18872]

THREE STATES NATURAL GAS CO.

Order for Hearing and Suspending Proposed Changes in Rates

JUNE 30, 1959.

Three States Natural Gas Company (Three States) on May 29, 1959, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, undated.
Purchaser: El Paso Natural Gas Co.
Rate schedule designation: Supplement No. 7 to Three States' FPC Gas Rate Schedule No. 8. Supplement No. 7 to Three States' FPC Gas Rate Schedule No. 9. Supplement No. 5 to Three States' FPC Gas Rate Schedule No. 10. Supplement No. 6 to Three States' FPC Gas Rate Schedule No. 11.
Effective date: July 1, 1959.

The increased rates and charges so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes and that Supplements No. 7 to Three States' FPC Gas Rate Schedules Nos. 8 and 9, respectively; Supplement No. 5 to Three States' FPC Gas Rate Schedule No. 10; and Supplement No. 6 to Three States' FPC Gas Rate Schedule No. 11 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplements No. 7 to Three States' FPC Gas Rate Schedules Nos. 8 and 9, respectively; Supplement No. 5 to Three States' FPC Gas Rate Schedule No. 10; and Supplement No. 6 to Three States' FPC Gas Rate Schedule No. 11.

(B) Pending the hearing and decision thereon, these supplements are each hereby suspended and the use thereof deferred until December 1, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission (Commissioner Kline dissenting).

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5702; Filed, July 9, 1959; 8:46 a.m.]

[Docket No. G-18886]

TEXAS GAS TRANSMISSION CORP.

Order Providing for Hearing and Suspending Proposed Revised Tariff Sheets

JULY 2, 1959.

On June 5, 1959, Texas Gas Transmission Corporation (Texas Gas) filed 51 revised tariff sheets[1] proposing an annual increase in rates of $6,986,022 or 7.3 percent over the rates in effect subject to refund in Docket No. G-16405 (and Docket No. G-12823 as to Texas Eastern Transmission Corporation only). The increased rates are proposed to become effective on July 6, 1959.

In support of its proposed rate increase Texas Gas relies principally on the increased cost of purchased gas due to shifts in sources of supply and increased rates of suppliers, the need for a 6½ percent rate of return with associated income taxes, and increased operating expenses.

The claimed increases in cost of purchased gas appear to be based in part on increases which are presently suspended or which are in effect subject to refund. The need for a rate of return higher than the 6 percent rate heretofore allowed can only be established after a formal hearing.

The increased rates and charges provided for in the Revised Tariff Sheets tendered by Texas Gas on June 5, 1959, have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

Texas Gas requests that its increase be suspended only until November 1, 1959, inasmuch as the increased rates of two of its suppliers were suspended until May 15, 1959 in one case (Docket No. G-17166) and October 1, 1959 in the other (Docket No. G-18406).

Texas Gas authorizes the Secretary of the Commission to change the effective date on its proposed tariff sheets for the sale of gas for resale for industrial use only[2] to the date which will coincide with the end of the suspension period for the other tariff sheets.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a public hearing concerning the lawfulness of the rates, charges, classifications, and services contained in Texas Gas' FPC Gas Tariff, Second Revised Volume No. 1, as proposed to be amended by First Revised Sheet No. 68-I; Second Revised Sheets Nos. 68-BB, 68-G, 68-H, 68-K, 68-L and 70-A; Third Revised Sheets Nos. 13, 15 and 68-C; Fourth Revised Sheets Nos. 7, 9, 19, 21, 25, 27 and 71; Fifth Revised Sheets Nos. 68-A, 68-B, 68-E and 68-F; Sixth Revised Sheets Nos. 79-I and 79-J; Seventh Revised Sheets Nos. 5, 11, 23, 29, 33, 41, 53, 55, 59, 61, 63, 67, 69, 70, 73 and 74; Eighth Revised Sheets Nos. 17, 31, 35, 37, 43, 57 and 65; and Ninth Revised Sheet No. 39; and that said proposed Revised Tariff Sheets and the rates contained therein be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held on a date to be fixed by notice from the Secretary concerning the lawfulness of the rates, charges, classifications, and services contained in Texas Gas' FPC Gas Tariff, Second Revised Volume No. 1 as proposed to be amended by First Revised Sheet No. 68-I; Second Revised Sheets Nos. 68-BB, 68-G, 68-H, 68-K, 68-L and 70-A; Third Revised Sheets Nos. 13, 15 and 68-C; Fourth Revised Sheets Nos. 7, 9, 19, 21, 25, 27 and 71; Fifth Revised Sheets Nos. 68-A, 68-B, 68-E and 68-F; Sixth Revised Sheets Nos. 79-I and 79-J; Seventh Revised Sheets Nos. 5, 11, 23, 29, 33, 41, 53, 55, 59, 61, 63, 67, 69, 70, 73 and 74; Eighth Revised Sheets Nos. 17, 31, 35, 37, 43, 57 and 65; and Ninth Revised Sheet No. 39.

(B) Pending such hearing and decision thereon Texas Gas' First Revised Sheet No. 68-I; Second Revised Sheets Nos. 68-BB, 68-G, 68-H, 68-K, 68-L and 70-A; Third Revised Sheets Nos. 13, 15 and 68-C; Fourth Revised Sheets Nos. 7, 9, 19, 21, 25, 27 and 71; Fifth Revised Sheets Nos. 68-A, 68-B, 68-E and 68-F; Sixth Revised Sheets Nos. 79-I and 79-J; Seventh Revised Sheets Nos. 5, 11, 23, 29, 33, 41, 53, 55, 59, 61, 63, 67, 69, 70, 73 and 74; Eighth Revised Sheets Nos. 17, 31, 35, 37, 43, 57 and 65; and Ninth Revised Sheet No. 39 to its FPC Gas Tariff, Sec-

[1] First Revised Sheet No. 68-I; Second Revised Sheets Nos. 68-BB, 68-G, 68-H, 68-K, 68-L and 70-A; Third Revised Sheets Nos. 13, 15, and 68-C; Fourth Revised Sheets Nos. 7, 9, 19, 21, 25, 27, and 71; Fifth Revised Sheets Nos. 68-A, 68-B, 68-E and 68-F; Sixth Revised Sheets Nos. 45, 47, 51, 79-I and 79-J; Seventh Revised Sheets Nos. 5, 11, 23, 29, 33, 41, 49, 53, 55, 59, 61, 63, 67, 69, 70, 73 and 74; Eighth Revised Sheets Nos. 17, 31, 35, 37, 43, 57 and 65; and Ninth Revised Sheet No. 39 to Texas Gas' FPC Gas Tariff, Second Revised Volume No. 1.

[2] Sixth Revised Sheets Nos. 45, 47 and 51 and Seventh Revised Sheet No. 49 to Texas Gas' FPC Gas Tariff, Second Revised Volume No. 1.

ond Revised Volume No. 1 be and they are hereby suspended and the use thereof deferred until November 1, 1959, and until such further time as they may be made effective in the manner prescribed by the Natural Gas Act.

(C) Sixth Revised Sheets Nos. 45, 47 and 51, and Seventh Revised Sheet No. 49 to Texas Gas' FPC Gas Tariff, Second Revised Volume No. 1 be accepted for filing to become effective on November 1, 1959 or such later date as the sheets herein suspended are placed in effect in the manner prescribed by the Natural Gas Act.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission (Commissioner Connole dissenting).

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5703; Filed, July 9, 1959; 8:46 a.m.]

[Docket No. G-18700]

ALABAMA-TENNESSEE NATURAL GAS CO.

Notice of Application and Date of Hearing

JULY 2, 1959.

Take notice that on June 4, 1959, Alabama-Tennessee Natural Gas Company (Applicant), a Delaware corporation, with its principal place of business at Florence, Alabama, filed an application, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of approximately 1.7 miles of 8⅝-inch loop pipeline extending from the North Header of Applicant's Tennessee River Crossing to its compressor station located in Limestone County, Alabama, which said facilities will be operated as an integral part of Applicant's natural gas pipeline system to serve the City of Huntsville, Alabama.

The purpose of the proposed facilities and their operation is to increase the line pressure on the suction side of the Limestone County Compressor Station so as to enable Applicant to deliver enough gas to Huntsville consumers to meet their requirements during peak hourly periods.

The estimated cost of facilities proposed is approximately $56,000. The funds to cover cost of construction will be paid from funds on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations, and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held on August 4, 1959 at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 27, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5704; Filed, July 9, 1959; 8:46 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

NOTICE OF AMENDMENT OF PLAN AND REGULATIONS OF THE ORDNANCE CORPS GOVERNING INTEGRATION COMMITTEE ON TRACKS FOR TRACK LAYING VEHICLES

Pursuant to section 708 of the Defense Production Act of 1950, as amended, there is published herewith the request to participate in the Voluntary Plan under Public Law 774, 81st Congress, as amended, for the participation in the activities of the Integration Committee on Tracks for Track Laying Vehicles, amended to put the mechanism for meeting defense requirements for reactivation in a standbuy status until such time as a national emergency in this field should be found to exist. This amendment was made after consultation between the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Office of Civil and Defense Mobilization. This amended voluntary plan was approved by the Director of the Office of Civil and Defense Mobilization and was found to be in the public interest as contributing to the national defense.

CONTENTS OF REQUEST

Reference is made to the participation of your company in the activities of the Integration Committee on Tracks for Track Laying Vehicles. The Department of the Army has recommended that the Plan and Regulations of the Ordnance Corps covering its activities be amended to place the Committee in a standby status pending a national defense need for reactivation. You are requested to participate in the Plan as amended (amendment attached).

The Attorney General has approved this request after consultation with respect thereto between his representatives, representatives of the Chairman of the Federal Trade Commission and my representatives, pursuant to section 708 of the Defense Production Act of 1950, as amended.

I approve the voluntary plan, as amended, and find it to be in the public interest as contributing to the national defense. You will become a participant therein upon notifying me in writing of your acceptance of this request. Will you kindly also send two copies of your acceptance to the Industrial Operations Branch, Procurement Division, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C.

If you accept this request, immunity from prosecution under the Federal antitrust laws and the Federal Trade Commission Act will be given upon such acceptance, provided that the activities of the Committee and your participation therein are within the limits set forth in the voluntary plan, as amended. The earlier request for your participation in the activities of this Committee is superseded and withdrawn.

Your cooperation in this matter will be appreciated.

Sincerely,

[S] LEO A. HOEGH,
Director.

The following companies have agreed to participate in the amended plan and this list supersedes membership notice published in 22 F.R. 5988, July 30, 1957.

ACCEPTANCES

Burgess-Norton Manufacturing Co., Geneva, Ill.
B. F. Goodrich Tire Co., Akron, Ohio.
Douglas Manufacturing Division, Kingston Products Corporation, Bronson, Mich.
Inland Manufacturing Division, General Motors Corporation, Dayton 1, Ohio.
The Firestone Tire and Rubber Company, Akron, Ohio.
The General Tire and Rubber Company, Wabash, Ind.
The Goodyear Tire and Rubber Company, Akron, Ohio.
The Ohio Rubber Company, Willoughby, Ohio.
The Standard Products Company, Port Clinton, Ohio.
United States Rubber Company, New York 20, N. Y.

(Sec. 708, 64 Stat. 818, as amended, 50 U.S.C. App. Sup. 2158; E.O. 10480, Aug. 14, 1953, 18 F.R. 4939; Reorg. Plan No. 1 of 1958, 23 F.R. 4991, as amended; E.O. 10773, July 1, 1958, 23 F.R. 5061; E.O. 10782, Sept. 6, 1958, 23 F.R. 6971)

Dated: June 25, 1959.

LEO A. HOEGH,
Director, Office of Civil and Defense Mobilization.

[F.R. Doc. 59-5662; Filed, July 9, 1959; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2674]

GERMAN SAVINGS BANKS & CLEARING ASSOCIATION

Notice of Application To Strike From Listing and Registration, and of Opportunity for Hearing

JULY 6, 1959.

In the matter of German Savings Banks & Clearing Association, SF Gold Debentures 7 percent Series 1926 due February 1, 1947, SF Gold Debentures 6 percent Series 1928 due June 1, 1947; File No. 1-2674.

The Boston Stock Exchange has made application, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following:

These bonds are inactive on the Exchange and are in process of conversion into new securities which will not become listed.

Upon receipt of a request, on or before July 22, 1959, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59–5712; Filed, July 9, 1959; 8:48 a.m.]

[File No. 24FW–1170]

CONSOLIDATED PETROLEUM INDUSTRIES, INC.

Notice of and Order for Hearing

JULY 6, 1959.

I. Consolidated Petroleum Industries, Inc. (issuer), a Texas corporation with its principal offices at 908 Alamo National Bank Building, San Antonio 5, Texas, filed with the Commission on April 30, 1959, a notification on Form 1–A and an offering circular, and filed amendments thereto, relating to an offering of 80,000 shares of its $3.50 par value 6 percent cumulative convertible preferred stock and 80,000 shares of its $.10 par value common stock, to be sold in units of one share of preferred and one share of common at a unit price of $3.75, for an aggregate offering of $300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder.

II. The Commission on June 9, 1959, issued an order pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the conditional exemption under Regulation A, and affording to any person having an interest therein an opportunity to request a hearing pursuant to Rule 261. A written request for hearing was received by the Commission.

The Commission, deeming it necessary and appropriate to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption.

It is hereby ordered, That a hearing under the applicable provisions of the Securities Act of 1933, as amended, and the rules of the Commission be held at the offices of the Fort Worth Regional Office of the Commission, 301 U.S. Courthouse, 10th and Lamar Streets, Fort Worth 2, Texas, at 10:00 a.m., July 14, 1959, with respect to the following matters and questions without prejudice, however, to the specification of additional issues which may be presented in these proceedings:

A. Whether the conditional exemption provided by Regulation A is not available for the securities purported to be offered in that:

1. The offering circular contains untrue statements of material facts, and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, particularly with respect to:

a. The projection of net future income under the caption "Summary of Valuation";

b. The valuations attributed to the Nulty, Villarreal, and Peters leases;

c. The estimates of reserves and of net future income from the Howeth and Mason leases;

d. The statement that there are 343,200 barrels of recoverable oil worth $1,098,240 underlying the Nulty lease;

e. The statement concerning the estimate of recoverable oil in the Owens report;

f. The statements that 225 barrels per acre foot are recoverable from East Wintergarden by present method of operation and that "this ultimate recovery can be increased by almost 400 percent by a complete natural water drive, or at least 200 percent by an artificial water flood project";

g. The table of gross production from the Askew and Clark leases, and the failure to disclose that the leases were being given discovery allowables and were not subject to shutdown days;

h. The inclusion of $261,636.42 in the financial statements representing appraised values of oil reserves and of equipment, such amount being arbitrary and having no relation to the nominal cost actually paid;

i. The failure to disclose in tabular form the net production of oil to the issuer's interests in its producing properties;

j. The statement under the caption "Transactions With Promoters" concerning the percentage of outstanding securities of the issuer which will be held by directors, officers, and promoters, as a group, and the percentage of such securities which will be held by the public, if all the securities to be offered are sold, and the respective amounts of cash paid therefor by such group and by the public.

2. The offering would be made in violation of section 17 of the Securities Act of 1933, as amended.

B. Whether the order dated June 9, 1959 temporarily suspending the exemption under Regulation A should be vacated or made permanent.

III. *It is further ordered,* That Robert N. Hislop or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing, and any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all of the powers granted to the Commission under sections 19(b), 21, and 22(c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on Consolidated Petroleum Industries, Inc., that notice of the entering of this order shall be given to all other persons by general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate in such hearing shall file with the Secretary of the Commission on or before July 10, 1959 a request relative thereto as provided in Rule XVII of the Commission's rules of practice.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59–5713; Filed, July 9, 1959; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FEES FOR COPYING, CERTIFICATION AND SERVICES IN CONNECTION THEREWITH

JULY 1, 1959.

Paragraph 7 of the Commission's notice of July 15, 1958, as amended, in the matter of fees for copying, certification, and services in connection therewith (23 F.R. 5642 and 23 F.R. 10577), is further amended to read as follows:

7. Transcripts of testimony and of oral argument, or extracts therefrom, may be purchased by the public from the Commission's official reporter. For the fiscal year beginning July 1, 1959, the official reporter is the CSA Reporting Corporation, 939 D Street NW., Washington, D.C., and transcripts will be furnished to the public at the rate of 55 cents per page of approximately 200 words. Application for copies and payment therefor should be made direct to the official reporter.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 59–5720; Filed, July 9, 1959; 8:49 a.m.]

[Notice 150]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 7, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 62220. By order of June 30, 1959, the Transfer Board approved the transfer to Harold Olson and T. J. Liveringhouse, a partnership, doing business as Olson and Liveringhouse, Wayne, Nebr.; of certificate in No. MC 94152, issued March 13, 1941, to T. J. Liveringhouse, Wayne, Nebr., authorizing the transportation of: certain specified commodities between specified points in Iowa and Nebraska.

No. MC–FC 62228. By order of June 30, 1959, the Transfer Board approved the transfer to John Conrad, R.R. No 1, Florence, Ky., of certificate in No. MC 102168, issued July 17, 1950, to Sam Ryle, Burlington, Ky., authorizing the transportation of: *General commodities,* except household goods and the other usual exceptions from Cincinnati, Ohio to specified points in Kentucky, and, *Livestock,* and *agricultural commodities,* from specified points in Kentucky to Cincinnati.

No MC–FC 62234. By order of June 30, 1959, the Transfer Board approved the transfer to Elliott Van & Storage Co., Inc., 2240 South 54th Street, West Allis 14, Wis., of certificate in No. MC 80279, issued October 14, 1949, to Ralph Elliott, doing business as Elliott Van & Storage Co., 2240 South 54th Street, West Allis, Wis., authorizing the transportation of: *Household goods,* between points in Milwaukee County, Wis., on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

No. MC–FC 62270. By order of June 30, 1959, the Transfer Board approved the transfer to Miller North Broad Transit Company, a corporation, Philadelphia, Pa., of a certificate in No. MC 2283, issued October 10, 1940, to Whitehead Transfer and Storage Co., a corporation, Springfield, Mo., authorizing the transportation of household goods, as defined by the Commission, over irregular routes, between specified points in Missouri and all points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Nebraska, Ohio, Oklahoma, Tennessee, and Texas. Lawrence B. Fenneman, Fenneman, Sachs and Cronin, 100 St. Paul Street, Baltimore 2, Md.

No. MC–FC 62291. By order of June 30, 1959, the Transfer Board approved the transfer to Sybil A. Beason, doing business as Beason Truck Service, Hardtner, Kans., of certificate in No. MC 90172, issued July 21, 1942, to Vernon Beason, Kiowa, Kans., authorizing the transportation of: Livestock, between 5 counties in Kansas, on the one hand, and, on the other, Oklahoma City, Okla., and points in Oklahoma, and between points in Alfalfa and Woods Counties, Okla., on the one hand, and, on the other, Wichita, Kans., and points in 11 counties, Kansas; agricultural implements and parts, binder twine, and farm machinery and parts between Hutchinson and Wichita, Kans., on the one hand, and, on the other, points in Alfalfa and Woods Counties, Okla., and between Kiowa, Kans., on the one hand, and, on the other, Enid, Okla., and points in 6 counties in Oklahoma; emigrant movables between points in Barber County, Kans., on the one hand, and, on the other, points in Oklahoma; carnival equipment, between points in Barber County, Kans., on the one hand, and, on the other, points in Alfalfa and Woods Counties, Okla.; and feed from Anadarko, Chickasha, and Oklahoma City, Okla., to points in Barber County, Kans. Townsend, Janders & Hope, Attorneys at Law, 641 Harrison Street, Topeka, Kans.

No. MC–FC 62292. By order of June 30, 1959, the Transfer Board approved the transfer to Complete Auto Transit of Missouri, Inc., St. Louis, Mo., of a portion of the operating rights in Permit No. MC 49368, and the entire operating rights in Permits Nos. MC 49368 Sub 68 and MC 49368 Sub 71, issued December 28, 1950, November 10, 1947, and January 3, 1950, respectively, to Complete Auto Transit, Inc., Detroit, Michigan, authorizing the transportation, over irregular routes, truckaway and driveaway, of new automobiles, new trucks, new bodies, and parts thereof, restricted to initial movements, from St. Louis, Mo., to points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, and West Virginia; new, used, unfinished, or wrecked automobiles, trucks, bodies, and parts thereof, restricted to secondary movements between points in Missouri; automobiles, trucks, chassis, bodies, cabs, all other automotive vehicles, unfinished automobiles, and automobile parts and accessories, restricted to initial movements, from St. Louis, Mo., to points in Kansas, Louisiana, Mississippi, Nebraska, Oklahoma, Texas, and Wisconsin; in driveaway service, trucks, chassis, bodies, cabs, and parts thereof, in initial movements, from St. Louis, Mo., to points in Idaho, Montana, North Dakota, South Dakota, Minnesota, Wyoming, Nevada, Utah, Colorado, and New Mexico, trucks, chassis, bodies, cabs, and parts thereof, in secondary movements, between points in Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas, South Dakota, Tennessee, Utah, West Virginia, Wisconsin, and Wyoming, and trucks and truck chassis, in initial movements, by driveaway method, and truck bodies and cabs, from St. Louis, Mo., to points in Alabama, Georgia, Florida, North Carolina, and South Carolina. Edmund M. Brady, 2150 Guardian Building, Detroit 26, Mich., for applicants.

No. MC–FC 62352. By order of June 30, 1959, the Transfer Board approved the transfer to Don Swart, doing business as Don Swart Trucking, Triadelphia, West Virginia, of a Certificate in No. MC 41069, issued March 21, 1941, to Paul Kardules, Martins Ferry, Ohio, authorizing the transportation of such bulk commodities as are transported in dump trucks, over irregular routes, between points in Marshall and Ohio Counties, W. Va., on the one hand, and, on the other, points in Ohio on and east of U.S. Highway 21. Carl B. Galbraith, 904–5–6 Riley Law Building, Wheeling, W. Va.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59–5719; Filed, July 9, 1959; 8:49 a.m.]

CUMULATIVE CODIFICATION GUIDE—JULY

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during July. Proposed rules, as opposed to final actions, are identified as such.